

# **INDIA 2013 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

India is a multi-party, federal, parliamentary democracy with a bicameral parliament. The president, elected by an electoral college, is the chief of state, and the prime minister is the head of the government. Under the constitution the 28 states and seven union territories have a high degree of autonomy and have primary responsibility for problems of law and order. President Pranab Mukherjee was elected in 2012 to a five-year term, and Manmohan Singh became prime minister for a second term following the victory of the coalition led by the Congress Party in the 2009 general elections, which were considered free and fair, despite scattered instances of violence. Authorities failed at times to maintain effective control over the security forces. Security forces at times committed human rights abuses.

The most significant human rights problems were police and security force abuses, including extrajudicial killings, torture, and rape; widespread corruption at all levels of government, leading to denial of justice; and separatist, insurgent, and societal violence.

Other human rights problems included disappearances, poor prison conditions that were frequently life threatening, arbitrary arrest and detention, and lengthy pretrial detention. The judiciary remained overburdened, and court backlogs led to lengthy delays or the denial of justice. Authorities continued to infringe on citizens' privacy rights. The law in some states restricts religious conversion, and there were reports of arrests but no reports of convictions under those laws. Some limits on the freedom of movement continued. Corruption was widespread. Rape, domestic violence, dowry-related deaths, honor killings, sexual harassment, and discrimination against women remained serious problems. Child abuse and forced and early marriage were problems. Trafficking in persons, including widespread bonded and forced labor of children and adults, and sex trafficking of children and adults for prostitution were serious problems. Caste-based discrimination and violence continued, as did discrimination against persons with disabilities and indigenous persons. Discrimination and violence based on gender identity and discrimination against persons with HIV/AIDS continued. Religiously based societal violence remained a problem. Forced labor and bonded labor were widespread. Child labor, including forced child labor, also was a serious problem.

Widespread impunity at all levels of government remained a serious problem. Investigations into individual cases and legal punishment for perpetrators occurred, but in many cases a lack of accountability due to weak law enforcement, a lack of trained police, and the overburdened and underresourced court system created an atmosphere of impunity.

Separatist insurgents and terrorists in Jammu and Kashmir, the Northeastern States, and the Naxalite belt committed numerous serious abuses, including killings of elected political leaders, armed forces personnel, police, government officials, and civilians. Insurgents were responsible for numerous cases of kidnapping, torture, rape, extortion, and the use of child soldiers.

## **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

### **a. Arbitrary or Unlawful Deprivation of Life**

There were reports that the government and its agents committed arbitrary or unlawful killings, including extrajudicial killings of suspected criminals and insurgents, especially in areas of conflict such as Jammu and Kashmir, the Northeastern States, and the Naxalite belt. During the year the South Asian Terrorism Portal (SATP), run by the nonprofit Institute for Conflict Management, reported 589 fatalities due to terrorism and insurgency (other than Maoist extremism), including 297 civilians, 192 security force members, and 390 terrorists. According to the SATP fatalities due to terrorist violence in the Northeastern States decreased from 316 deaths in 2012 to 271. Fatalities from terrorist violence in Jammu and Kashmir, however, increased from 117 deaths in 2012 to 181 as of December 29.

The National Human Rights Commission (NHRC), an organization formed by the government, recommended that the Criminal Investigations Department investigate all police encounter deaths, in which alleged suspects are killed while being pursued, arrested, or reportedly trying to escape, but many states did not follow this nonbinding advice and continued to conduct internal reviews only at the discretion of senior officers.

While NHRC guidelines direct state governments to report all cases of deaths from police actions to the NHRC within 48 hours, state governments did not consistently comply with the guidelines. The NHRC also directed state governments to provide monetary compensation to families of victims, but the state governments did not consistently comply with the guidelines. The armed forces were not required to

report custodial deaths to the NHRC. The National Crime Records Bureau (NCRB) reported 109 cases of custodial deaths during 2012, and statistics for the year were not available at year's end.

Sudipta Gupta, a leader of the Students' Federation of India (SFI), who was arrested during a clash with Kolkata police, died while being transported to the Presidency Jail in a police bus on April 2. The SFI and other activists claimed that police beat him on the bus. Police claimed his death was caused by an accident in which he fell off the bus and hit his head on a lamppost. The incident triggered mass protests. The West Bengal Human Rights Commission ordered a probe into the death, but no results were reported by year's end.

On February 14, the Ramanathapuram Sessions Court convicted eight police personnel and sentenced them to prison terms ranging from six months to 10 years in a 2002 custodial death case of Karuppi at the Paramakudi police station in Tamil Nadu. The court concluded that Karuppi, a maid from Kattuparamakudi, had committed suicide in 2002 after five days of illegal detention. The judge sentenced five of the eight convicted police personnel to 10 years in Madurai Prison under sections 306 (abetment of suicide), 201 (causing disappearance of evidence), 220 (illegal detention), 342 (wrongful confinement), and 323 (causing simple injuries) of the penal code. The other three received prison terms of six months to three years.

Most encounter killings, in which security forces and police killed alleged criminals or insurgents, occurred in conflict areas, but they reportedly occurred elsewhere in the country as well. Citing official statistics, news organizations reported 127 fake encounter cases across the country during the 2012-13 Indian fiscal year (April 1 to March 31), mostly in conflict areas. There were 555 fake encounter cases registered across the country during the past four years, with the most reported in Uttar Pradesh (138), followed by Manipur (62), Assam (52), West Bengal (35), Jharkhand (30), Chhattisgarh (29), Odisha (27), Jammu and Kashmir (26), Tamil Nadu (23), and Madhya Pradesh (20). Only 144 of 555 cases were solved as of July.

On February 1, the trial for the 2005 fake encounter case of Sohrabuddin Sheikh began in the special court of the Central Bureau of Investigation (CBI) in Mumbai. The defendants included 19 senior police officials and former Gujarat home minister Amit Shah. Gujarat's antiterrorist squad allegedly abducted Sheikh and his wife Kauser while the couple was traveling on a public bus from Hyderabad to Sangli, Maharashtra. Three days later police allegedly killed Shaikh in a staged

encounter on a highway near Ahmedabad. In 2006 Gujarat police also allegedly killed Tulsiram Prajapati, a key witness in the case. The Supreme Court shifted the trial to Maharashtra from Gujarat after the investigating agency stated that the accused had intimidated witnesses.

On July 3, the CBI filed charges against seven Gujarat police officers with the Gujarat High Court and accused them of killing Ishrat Jahan and the three men with her in a fake encounter in 2004. The court granted bail to three of the seven, and the others remained in jail awaiting trial at year's end.

On March 21, trial proceedings for the 2003 police encounter killing case of Sadiq Jamal Mehtar began in the special CBI sessions court in Ahmedabad. In 2003 an Ahmedabad crime branch police team allegedly killed Mehtar in an encounter. The Gujarat High Court ordered the CBI to investigate the case in 2011. The CBI arrested eight Gujarat police officers in the case.

Sources continued to report a serious problem with custodial deaths, in which prisoners were killed or died in police custody. The failure of central and state authorities to pursue prosecutions against police or security force members also remained a problem.

On January 19, Kazi Nasiruddin, a Trinamool Congress Party activist from West Bengal's Hooghly District, died in police custody, allegedly due to police brutality. Police arrested him for allegedly driving while drunk without proper vehicle registration papers and took him to a local police station, where Trinamool workers and his family claimed he was beaten. Nasiruddin was declared dead on arrival at a local hospital later that night. Nasiruddin's widow filed a police complaint, but police failed to take action on the report. The Kolkata High Court began monitoring the case, and the West Bengal Crime Investigation Department (CID) arrested three police officers in February. The high court ordered a CBI investigation into the death in May, which the Trinamool-led West Bengal government tried to stop by petitioning the Supreme Court. The Supreme Court rejected the petition in June, and the investigation continued at year's end.

On January 1, the NHRC subpoenaed Andhra Pradesh Police Chief V. Dinesh Reddy and questioned him about the 2012 death in custody of Abdul Razaq Masood, an accused terrorist. Police claimed that Masood committed suicide, but the human rights nongovernmental organization (NGO) Civil Liberties Monitoring Committee suggested that police were responsible for his death.

Reports continued that security forces committed unlawful killings in the Northeastern States during the year. On January 20, army personnel conducting counterinsurgency operations in an Assam forest killed a 20-year-old man who his family maintained was collecting firewood. The family denied the army's claim that the man was a United Liberation Front of Assam militant, and local police later determined the claim was false. The case sparked protests and highway blockades in the area. Local authorities provided some compensation to the family, but authorities took no action against the army personnel involved in the incident.

On May 17, the Combat Battalion for Resolute Action squad of the Central Reserve Police Force opened fire at a gathering of tribal villagers in Edasmeta village, Bijapur District in south Chhattisgarh, killing eight tribal citizens, three of whom were children, and one police officer. Police claimed that Maoist insurgents used the villagers as human shields. Following widespread protests, the Chhattisgarh government announced compensation of 800,000 rupees (\$13,000) to each family of those killed and ordered a judicial probe in the incident.

Police killed two persons during protests calling for separate statehood in Assam's Karbi Anglong District on August 1.

On July 18, Border Security Force (BSF) personnel killed four persons in Ramban, Jammu, during a demonstration. Following an investigation, a special investigative tribunal of the Jammu and Kashmir police filed charges of "indiscriminate firing" against six personnel, including two officers of the 76th Battalion. The Ramban court reportedly allowed the BSF to try the personnel by court-martial instead of in civilian court. The Central Reserve Police Force killed four persons on September 7 and one on September 11 in Shopian in Jammu and Kashmir. At year's end a judicial commission appointed to review the deaths was taking testimony from witnesses.

In January the Supreme Court appointed an independent panel to investigate six alleged unlawful killings by security forces. The panel concluded that in all six cases, the "encounters" were "not genuine" and that police had tried to make the killings appear defensible under the law.

On January 6, Maharashtra police shot and killed six Muslim youths while trying to disperse a mob during an altercation between Hindus and Muslims in the town of Dhulia. Media reports and video footage indicated that police shot at the youths' upper torsos rather than at their feet, as is the norm when dispersing a mob.

The Maharashtra government ordered a judicial inquiry and arrested six police officers. Authorities granted them bail and suspended them from the police force.

According to the Ministry of Home Affairs' 2011-12 report, the BSF was responsible for killing 30 persons along the country's land borders. Deaths along the border with Bangladesh remained a concern. According to the Bangladeshi NGO Odhikar, the BSF killed 15 and injured 53 Bangladeshi citizens on that border between January and June. The BSF typically explained the killings as actions to stop those evading arrest or as the result of shots fired in self-defense. Government statistics for the year were not available.

UN Special Rapporteur Christof Heyns released a report in April which stated that unmarked graves found in Jammu and Kashmir contained more than 2,943 bodies of victims of extrajudicial executions from 1990 to 2009. While the government expressed its intention to conduct investigations into unmarked graves, no investigation was initiated by year's end.

The Armed Forces Special Powers Act (AFSPA) remained in effect in Nagaland, Manipur, Assam, and parts of Tripura, and a version of the law was in effect in Jammu and Kashmir. Under the AFSPA the government may declare any state or union territory a "disturbed area," a declaration that allows security forces to fire on any person to "maintain law and order" and to arrest any person "against whom reasonable suspicion exists" without informing the detainee of the grounds for arrest. The law also gives security forces immunity from civilian prosecution for acts committed in regions under the AFSPA. There were no public records available of acts committed under the AFSPA.

A three-member panel appointed by the Supreme Court reported in April that the armed forces operating under the shield of the AFSPA were committing serious human rights violations. The federal government promised the Supreme Court that it would place the panel report before the cabinet committee on security. The NHRC asked the Supreme Court to order the government to prosecute those responsible for the killings.

The government made some progress in cases that seek to hold police and security officials accountable for killings committed during the Gujarat riots in 2002. On December 26, a magistrate court in Gujarat rejected a petition filed by widow Zakia Jafri challenging the conclusion of a special investigative tribunal that found insufficient evidence to prosecute 63 individuals, including senior government

officials, accused of complicity or dereliction of duty in the 2002 riots. Jafri stated she would appeal the verdict.

On July 23, four attackers killed Right to Information (RTI) Act activist Vasant Patil in Bhandup, Mumbai. Patil had complained to police that two of the four alleged attackers were involved in illegal construction. Police arrested the four accused, and the Maharashtra government ordered the Mumbai Crime Branch to investigate.

On August 20, unidentified assailants killed Narendra Dabholkar, a well known Pune-based activist who headed the Maharashtra Andhshraddha Nirmoolan Samiti (antisuperstition rationalists' society). Maharashtra police were investigating his death at year's end.

On November 2, the government appealed the 2011 acquittal of Amit Dubey, a vice president of the far-right Hindu nationalist political party Shiv Sena, on murder charges for allegedly raping and setting afire a 19-year-old tribal Christian missionary schoolteacher in Barwani, Madhya Pradesh, in 2010.

There were some developments on accountability efforts for the Delhi anti-Sikh killings of 1984. In December the Supreme Court rejected Congress party leader Sajjan Kumar's petition to quash charges against him in Delhi for a killing in Sultanpuri connected with the anti-Sikh riots, setting the stage for a trial. Protests against the government continued.

Nongovernmental forces, including organized insurgents, reportedly committed numerous killings, especially in areas of conflict such as Jammu and Kashmir, the Northeastern States, and the Naxalite belt (see section 1.g.). Maoists in Jharkhand continued to attack security forces.

## **b. Disappearance**

There were reports that police throughout the country failed to file required arrest reports for detained persons, resulting in hundreds of unresolved and unreported disappearances. Police and government officials typically denied these claims. The central government reported that state government screening committees that determined which detainees were eligible for release informed families about detainees, but other sources stated that families often needed to bribe prison guards to confirm the detention of their relatives.

Disappearances attributed to government forces, paramilitary forces, and insurgents occurred in areas of conflict during the year (see section 1.g.).

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits torture, but many NGOs reported that such practices were common, especially in areas of conflict (see section 1.g.).

Police beatings of prisoners resulted in deaths in custody (see section 1.a.). In August the Ministry of Home Affairs reported to parliament that 318 cases of custodial torture were reported from various states from April 1, 2012, to February 15, 2013. The ministry also stated that for the same period the states reported 126 cases of custodial deaths.

The law does not permit authorities to admit into evidence confessions that have been coerced, but NGOs and citizens alleged that authorities used torture to coerce confessions. In some instances these confessions were submitted as evidentiary support for death sentences. Authorities allegedly also used torture as a means to extort money or as summary punishment. According to human rights experts the government continued to try individuals arrested and charged under the Prevention of Terrorism Act and Terrorist and Disruptive Activities Act, although these acts were repealed. Under these laws a confession made to a police officer was treated as admissible as evidence in court.

There were continued reports that police raped women, including while in police custody. NGOs stated that the NHRC underestimated the number of rapes that police committed. Some rape victims were afraid to come forward and report the crime due to social stigma and possible acts of retribution, compounded by lack of oversight and accountability, especially if the perpetrator was a police officer or other official. The NHRC has the power to investigate rape cases involving police officers. According to section 19 of the Protection of Human Rights Act, the NHRC can request information about the army and paramilitary forces, but it has no mandate to investigate cases pertaining to such entities.

The Verma Commission, in its January report outlining measures to reduce violence against women in the wake of the 2012 Delhi gang-rape case, recommended an early review of the AFSPA. The report found that the AFSPA legitimized “impunity for systematic or isolated sexual violence in the process of internal security duties” and added that cases of sexual violence against women by



members of the armed forces must be brought under the purview of ordinary criminal law. The government did not take action on these recommendations during the year.

On April 1, Chapal Soren died due to alleged torture by the army at Jamuguri village while in Baksa District, Assam. A group of army personnel entered Soren's house to search for arms around midnight. They arrested Soren, who was found dead the next morning. Soren's family members alleged that he died due to torture while in army custody.

The Human Rights Law Network (HRLN) reported that the Assam Rifles detained Rajanglung Kamei from Manipur on June 22 for insurgent activities. The HRLN stated that he was tortured in custody before the Manipur High Court directed his release on July 5 in response to a habeas corpus petition filed by his family.

### **Prison and Detention Center Conditions**

Prison conditions were frequently life threatening and did not meet international standards.

Physical Conditions: Prisons were severely overcrowded and food, medical care, sanitation, and environmental conditions often remained inadequate. Potable water was only occasionally available. Prisons and detention centers remained understaffed and lacked sufficient infrastructure. Prisoners were physically mistreated.

Government statistics, mainstream media, and activists reported serious overcrowding and high numbers of pretrial detainees. According to the NCRB 2012 report, Chhattisgarh prisons were at 253 percent of capacity, Madhya Pradesh at 128 percent, Gujarat at 95 percent, and Maharashtra at 99 percent. Uttarakhand state reported the highest level above capacity for female inmates with 154 percent.

According to the NCRB's *Prison Statistics India 2012* report, there were 1,394 prisons in the country with an authorized capacity of 343,169 persons. The actual jail population was 385,135. Persons awaiting trial accounted for more than two-thirds of the prison population. There were 16,951 female prisoners, approximately 4 percent of the total prison population, while juveniles constituted less than 1 percent. Authorities held men and women separately. The law requires juveniles to be detained in rehabilitative facilities, although at times they were

detained in prisons, especially in rural areas. Officials held many pretrial detainees with convicted prisoners.

Administration: Visitors were permitted some access to prisoners, although some family members stated that they were denied access to relatives held in detention, particularly in areas of conflict, including Jammu and Kashmir. Prisoners have the right to engage in religious activity, and in most cases that right was respected. The government allowed some NGOs to assist prisoners, within specific guidelines. Prison officials kept extensive records. There was no ombudsman for detention facilities, but prisoners could submit complaints to judicial authorities. Alternative sentencing methods were rarely used.

On July 16, a special court hearing cases under the Maharashtra Control of Organized Crime Act allowed 50 accused Muslims awaiting trials to observe Ramadan, the religious fasting month, in jail. The court also permitted their families to provide home-cooked meals, subject to the supervision of authorities. On July 23, a Gujarat court denied a request for home-cooked meals during Ramadan from some of the accused in the case of the 2008 bombings in Ahmedabad. The state government stated that it would supply meals appropriate for Ramadan in jail.

Independent Monitoring: The Ministry of Home Affairs acknowledged in its 2012-13 annual report that the NHRC visited jails and other institutions where persons were detained, in order to observe and report on the living conditions of the inmates. The NHRC received and investigated prisoner complaints of human rights violations throughout the year, but some activists indicated that many complaints were not filed due to fear of retribution from prison guards or officials. Most NHRC findings and recommendations were published on the NHRC website, but NGOs alleged that investigations and recommendations dealing with controversial topics, such as the conditions of detainees, were not disclosed.

Prisoners could register complaints with state and national human rights commissions, but these commissions could only recommend that authorities redress grievances. Government officials often failed to comply with a 2012 Supreme Court order to the central government and local authorities to conduct regular checks on police stations to monitor custodial violence.

In many states the NHRC made surprise visits to state prisons but not to military detention centers. The NHRC lacks jurisdiction over the armed forces and their detention centers. The NHRC sent a special rapporteur to verify that state prison

authorities performed medical exams and timely checkups on all inmates in various prisons. The rapporteur visited prisons on a regular basis throughout the year but did not release a report to the public or the press, since the NHRC did not have the resources to document each visit.

The home ministry allowed the first-ever foreign expert inspection of a jail in Mohammed “Tiger” Hanif Umerji Patel’s extradition case. A team from a foreign court inspected the Gujarat jail that was holding Tiger Hanif for his alleged role in the 1993 Surat bombing case, in which an eight-year-old girl was killed and 12 others were injured.

During the year the International Committee of the Red Cross (ICRC) reported visiting detainees in judicial custody in prisons in Jammu and Kashmir. The ICRC did not visit interrogation or transit centers in any other parts of the country. The ICRC’s findings regarding prison conditions remained confidential due to agreements with the government.

The National Commission of Women continued visiting jails during the year to assess the living conditions of women. Sanlaap, an NGO working on repatriation of human trafficking victims in West Bengal, reported easy prison access to illegal migrants detained under the Foreigners’ Act.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, but both occurred during the year. Police also used special security laws to delay judicial reviews of arrests. Pretrial detention was arbitrary, lengthy, and sometimes exceeded the duration of the sentence given to those convicted.

Police responses to incidents of terrorism included the use of torture, mistreatment of suspects, and arbitrary detention in an effort to obtain forced or false confessions. Police held suspects without registering their arrests and denied some suspects sufficient food and water.

In April and May, Maharashtra police arrested four members of the Pune-based activist theater troupe Kabir Kala Manch, which took up human rights problems on behalf of tribal citizens and Dalits. Police arrested the activists under the Unlawful Activities Prevention Act (UAPA), which gives authorities the ability to detain persons without charge in cases in which insurgency or terrorism is suspected. Police alleged that Kabir Kala Manch was a front organization for Maoists. In

June the Bombay High Court granted bail to Sheetal Sathe, a member of Kabir Kala Manch, in order for her to give birth.

### **Role of the Police and Security Apparatus**

Although the central government provides guidance and support, the 28 states and seven union territories have primary responsibility for maintaining law and order. Police are under state jurisdiction. The Ministry of Home Affairs controls most paramilitary forces, the internal intelligence bureaus, and the nationwide police service, and provides training for senior police officers of the state-organized police forces. According to Human Rights Watch (HRW), cases of arbitrary arrest, torture, and forced confessions by security forces remained common. Authorities used several laws, including part of the criminal procedure code and the AFSPA, to provide legal protection for members of the security forces who were accused of committing human rights abuses.

The effectiveness of law enforcement and security forces varied widely throughout the country. Officers at all levels acted with impunity, and officials rarely held them accountable for illegal actions. Military courts investigated cases of abuse by security officials of both the army and paramilitary forces. Cases against law enforcement officers were tried in public courts. Authorities sometimes transferred officers after they were convicted of a crime.

According to the Ministry of Home Affairs' 2012-13 annual report, the NHRC registered for consideration 80,764 cases of abuse by security officials nationwide between April and December 2012. The commission closed 66,346 cases, some of which had been carried forward from previous years. In 275 cases the commission recommended payment of interim relief amounting to 86.7 million rupees (\$1.42 million).

### **Arrest Procedures and Treatment of Detainees**

Arbitrary Arrest: The code of criminal procedure prohibits arbitrary arrest or detention, but police continued to arrest citizens arbitrarily. Police detained individuals for custodial interrogation without identifying themselves properly or providing arrest warrants.

On February 15, the NHRC recommended that the Government of Assam pay compensation of 20,000 rupees (\$325) to Xukiye Yepatha, a resident of Shiopu village, Nagaland, who had been accused of being a member of a dissident group.

In 2011 police removed Yepatha from a hospital following surgery and subjected him to questioning at a police station until the following day. The NHRC also asked the state government to take action against the police officers who illegally detained him without charge.

Pretrial Detention: Under the law those detained on criminal charges must be informed promptly of the charges against them and of their right to legal counsel. Under the criminal code, a magistrate may authorize the detention of an accused person for a period of no more than 90 days prior to filing charges. Under the regular criminal procedure, the accused must be released on bail after 90 days. The code also allows police to summon individuals for questioning, but it does not provide authority for police to detain individuals involuntarily for questioning before placing them under arrest. There were incidents in which authorities allegedly detained suspects beyond the legal limit for police custody.

There were reported cases in which police denied suspects the right to meet with their legal counsel as well as cases in which police unlawfully monitored suspects' conversations and denied their right to confidentiality. The constitution mandates free legal aid in cases of "economic or other disabilities," but need is not assessed systematically. By law authorities must allow family members access to detainees, but this was not always observed. Arraignment of detainees must occur within 24 hours unless the suspect is held under a preventive detention law.

By law police may detain an individual without charge for up to 30 days. The law also permits authorities to hold a detainee in judicial custody without charge for up to 180 days (including the 30 days in police custody). The UAPA denies bail for foreigners and makes it easier for courts to deny bail in the case of detained citizens. It presumes the accused to be guilty if the prosecution can produce certain incriminating evidence indicating the possession of arms or explosives or the presence of fingerprints at a crime scene, regardless of whether criminal intent is demonstrated. State governments also held persons without bail for extended periods before filing formal charges under the UAPA.

In April the Supreme Court granted bail to Abdul Majid (alias Kankatto), who was serving a life sentence in the 2002 Godhra train-burning case. In September the Gujarat High Court ordered bail for three convicts serving life sentences in the case, while rejecting the bail applications of the 11 others serving life sentences for the same case. In November the Gujarat High Court also ordered the special Godhra court to complete within three months the trial of Ismail Yusuf Chhunga, who was arrested after the 2011 convictions in the case.

The law permits preventive detention in certain cases. The National Security Act (NSA) allows police to detain persons considered security risks anywhere in the country, except Jammu and Kashmir, without charge or trial for as long as one year. The law allows family members and lawyers to visit NSA detainees and requires authorities to inform a detainee of the grounds for detention within five days, or 10 to 15 days in exceptional circumstances.

The Public Safety Act, which applies only in Jammu and Kashmir, permits state authorities to detain persons without charge or judicial review for as long as two years. During this time family members do not have access to detainees. Detainees are allowed access to a lawyer during interrogation, but police in Jammu and Kashmir routinely employed arbitrary detention and denied detainees, particularly the destitute, access to lawyers and medical attention.

Chhattisgarh state maintained the Special Public Security Act, in place since 2005, which permits detention for as long as three years for loosely defined unlawful activities. Human rights groups voiced concerns that the law criminalizes any support given to Naxalites (Maoists), even support provided under duress.

The HRLN in Kochi noted that prisoners with mental disabilities in the Kerala central prison were jailed for 10 to 26 years and continued to await trials. Persons with mental disabilities were considered “not fit for trial” and therefore remained in prison. The detention period for their offenses far exceeded the relevant potential sentences, according to the NGO. In June the HRLN filed a writ petition with the Kerala High Court for the release of those prisoners. The court responded by issuing an order directing the state government to provide adequate medical treatment to the accused in order to be fit for trial.

Arbitrary and lengthy detention was a major problem because of the overburdened and underresourced court systems and the lack of sufficient safeguards. The government continued efforts to reduce lengthy detentions and alleviate prison overcrowding by using “fast track” courts which specify a trial date or timeline, provide directions for case management, and encourage the use of bail. These courts have been criticized for failing to uphold due process. Critics contended that poor detainees were unable to make bail and remained in detention.

According to the HRLN, Kerala police arrested two Nigerian citizens on a complaint of e-mail fraud. Although the magistrate’s court convicted them and the sessions court acquitted them in January 2012, they remained in detention. The

HRLN filed a writ petition for their release in the Kerala High Court in June. The case remained pending at year's end.

### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary, and the government generally respected judicial independence, although judicial corruption was widespread.

The judicial system remained seriously overburdened and lacked modern case management systems, often delaying or denying justice. In August, Law Minister Kapil Sibal stated that there were three vacancies on the Supreme Court and 275 vacancies on the high courts. Vacancies in the subordinate judiciary were also alarming, with more than 3,700 positions to be filled in the states. The law minister attributed lengthening delays of cases in courts to the vacancies.

There were allegations of bias in cases stemming from the 2002 Gujarat violence (see section 6, Other Societal Violence or Discrimination).

### **Trial Procedures**

The criminal procedure code provides for public trials, except in proceedings that involve official secrets, trials in which someone might make statements prejudicial to the safety of the state, or under provisions of special security legislation. Defendants enjoy the presumption of innocence, except as described under UAPA conditions, and may choose their counsel. The state provides free legal counsel to poor defendants, but access to competent counsel often was limited, especially for the poor, and the strained justice system usually resulted in major delays in court cases.

The law allows defendants access to relevant government evidence in most civil and criminal cases, but the government reserved the right to withhold information and did so in cases it considered sensitive. While defendants have the legal right to question witnesses against them, underprivileged defendants sometimes did not enjoy this right due to lack of proper legal representation. Courts must announce sentences publicly, and there are effective channels for appeal at most levels of the judicial system.

### **Political Prisoners and Detainees**

There were reports of political prisoners and detainees in the country. NGOs reported that the Jammu and Kashmir government held political prisoners and temporarily detained more than 600 persons characterized as terrorists, insurgents, and separatists under the Public Safety Act between 2005 and 2012.

At the end of 2011, West Bengal had 438 political prisoners in the state's correctional facilities, according to the Association for Protection of Democratic Rights. In August the West Bengal Assembly passed an amendment to the state's Correctional Services Act to bar those with links to terrorist organizations from receiving political prisoner status. The State Correctional Administration minister stated that the bill was amended because "the government could not distinguish between political and nonpolitical prisoners." The opposition Left Front dubbed the amendment a "black law passed to suit the government's own interests."

### **Civil Judicial Procedures and Remedies**

Individuals, or NGOs on behalf of individuals or groups, may file public interest litigation petitions in any high court or directly in the Supreme Court to seek judicial redress of public injury. These injuries could result from a breach of public duty by a government agent or a violation of a provision of the constitution. NGOs credited public interest litigation petitions with making government officials accountable to civil society organizations in cases involving allegations of corruption and partiality.

#### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The law prohibits arbitrary interference, and the government generally respected these provisions, although at times authorities infringed upon the right to privacy. Police are required to obtain warrants to conduct searches and seizures, except in cases in which such actions would cause undue delay. Police must justify warrantless searches in writing to the nearest magistrate with jurisdiction over the offense. In Jammu and Kashmir, Punjab, and Manipur, authorities have special powers to search and arrest without a warrant. In terrorism cases under the UAPA, police have greater discretion to conduct search and seizure operations.

The Information Technology (IT) Act allows police under certain circumstances to search premises and arrest individuals without a warrant. The act specifies a one-year sentence for persons who fail to provide information to the government on request and a five-year sentence for transmitting obscene material.



Both the central and the state governments used the authority of the Telegraph Act to surveil communications, including telephone conversations and personal mail, in cases of public emergency or “in the interest of the public safety or tranquility,” although evidence obtained in that manner is generally inadmissible in court. The UAPA allows use of evidence obtained from intercepted communications in terrorist cases.

Opponents of the Chhattisgarh Special Public Security Act 2005 (CSPSA) argued that the law, which authorizes detention of individuals with a “tendency to pose an obstacle to the administration of law,” infringed upon privacy and free speech. On June 26, the Durg District court acquitted Chhattisgarh-based lawyer Rekha Parghaniya, who was arrested under the CSPSA. Parghaniya was defending a couple accused of sedition. The court acquitted all three due to lack of evidence.

#### **g. Use of Excessive Force and Other Abuses in Internal Conflicts**

During the year the country’s armed forces, individual states’ security forces, and paramilitary forces continued to engage in armed conflict with insurgent groups in Jammu and Kashmir, in several northeastern states, and with Naxalite (Maoist) insurgents in the central and eastern parts of the country. Army and central security forces continued to be deployed in non-Maoist conflict areas in the Northeast, with major insurgent groups engaged in peace negotiations with the federal government. In West Bengal’s Naxalite belt there was no army presence although other central and state forces remained deployed.

The use of force by all parties to the conflicts resulted in deaths and injuries to both conflict participants and civilians. There were reports that government security forces committed extrajudicial killings, including staging encounter killings to cover up the deaths of captured militants. Human rights groups claimed that police refused to turn over bodies in cases of suspected staged encounters. The armed forces were not required to report custodial deaths to the NHRC.

The central and state governments and the armed forces investigated complaints and punished some violations committed by their own forces, and they arrested and tried insurgents under terrorism-related legislation. Police or paramilitary forces were subject to prosecution for human rights violations. In December the army opened a court-martial of two officers and four enlisted men involved in a 2010 fake encounter case in Kashmir. The accused allegedly killed three civilians in Machil along the Line of Control and falsely claimed that the victims were Pakistani infiltrators.

Investigations and prosecutions of human rights violations arising from internal conflicts remained slow and few in number. The Jammu and Kashmir Coalition of Civil Society reported eight extrajudicial killings by the armed forces in 2012. The government failed to prosecute or conduct impartial investigations of these deaths by year's end. The CBI did start an investigation into the killing of 19 persons in Poonch District on the border with Pakistan in August 1998, in response to a petition filed by the victims' families in 2011. The high court ordered the CBI to prosecute the allegedly guilty police and army personnel.

NGOs reported that the armed forces continued to kill civilians with impunity provided under the AFSPA in Jammu and Kashmir.

Insurgents reportedly committed attacks on schools, roads, and railways tracks.

Killings: The SATP database reported that 419 persons, including 110 security force personnel, 158 civilians, and 151 Maoist militants, were killed during the year as a result of Naxalite (Maoist) violence, an increase from 2012 when 104 security force personnel, 146 civilians, and 117 Maoist insurgents were killed. The Institute for Conflict Management reported 181 fatalities in Jammu and Kashmir during the year, including 61 security forces persons, 20 civilians, and 100 terrorists.

In Naxalite (Maoist) affected districts, there were reports of excessive use of force by security agencies and insurgents. For example, on July 7, Maharashtra police killed six suspected Naxal women in Mendhari village, in Gadchiroli District. After a fact-finding mission, the human rights NGO Coordination of Democratic Rights Organization filed a complaint alleging that police killed the women in captivity after they asked to surrender. Police denied the allegation, and the government of Maharashtra ordered a judicial inquiry.

On May 25, Naxalites killed 29 Congress Party activists in an ambush of the Chhattisgarh Congress' election convoy in Jhiram Ghati (Darbha Valley) in the Bastar region of South Chhattisgarh. Naxalites kidnapped and killed Chhattisgarh state President Nand Kumar Patel, Congress leader Mahendra Karma, and the founder of the disbanded anti-Naxal paramilitary force, Salwa Judum. This was the first Naxal attack on a political group in the Naxal-dominated region of central India. In Maharashtra 45 persons were killed, including seven security personnel, 10 civilians, and 28 insurgents. Insurgents killed three former Salwa Judum

members in Chhattisgarh and one in Maharashtra during the year. (In 2011 the Supreme Court disbanded the Salwa Judum militia.)

Abductions: Human rights groups maintained that military, paramilitary, and insurgent forces abducted numerous persons in Jammu and Kashmir, Manipur, Jharkhand, and the Naxalite belt. Human rights activists feared that some of the unacknowledged prisoners were tortured and/or killed during detention.

According to media reports a Kuki insurgent group in Manipur abducted two Manipur government officials on August 8. The officers were released later, although the insurgents' demand for ransom was rejected.

Physical Abuse, Punishment, and Torture: There were reports that government security forces tortured, raped, and mistreated insurgents and alleged terrorists in custody and injured demonstrators. All parties to the conflicts injured civilians.

On July 14, personnel of the army's Eighth Gorkha Squadron posted at Khoupum, Tamenglong District, Manipur, allegedly tortured a tribal man identified as Nailin Malangmei. The squadron personnel, under the command of Major Sachin, allegedly picked up the victim to lead them to a suspected dissident. When the man failed to disclose anything that could help the squadron find the militant, the security forces reportedly blindfolded him, poured water in his mouth and nose, and beat him.

Child Soldiers: A shadow report to the UN Committee on the Rights of the Child on the Involvement of Children in Armed Conflict released by the Asian Centre for Human Rights (ACHR) in March stated that state governments in Odisha, Jharkhand, and West Bengal recruited thousands of youths as special police officers.

Insurgent groups reportedly used children in militant activities. According to various news outlets and United Nations reports, in 2012 Naxals recruited children for the wing known as Bal Sangathan, or "children's unit" in Bihar, Chhattisgarh, Jharkhand, Maharashtra, West Bengal, and Odisha states. Insurgents forced families to give up their children or face serious consequences. Insurgents trained children as spies and couriers, and gradually in the use of arms, in planting land mines and bombs, and in intelligence gathering.

Although the United Nations was not able to verify all allegations, reports submitted to parliament contained similar allegations. Recruitment and use of

children by Maoist armed groups allegedly continued during the year. Reports alleged that the Naxalites recruited children between ages six and 12. Children reportedly fought with crude weapons or acted as informants. Children as young as age 12 were members of Maoist youth groups and allied militia. They reportedly handled weapons and improvised explosive devices. Naxalites reportedly held children against their will and threatened severe reprisals, including the killing of family members, if the children left.

According to the child soldiers report by the ACHR, Naxalites forcibly recruited children in the Wala village in the forests of Abujhmarh near the Chhattisgarh and Maharashtra border.

According to government sources Maoist armed groups used children as human shields in confrontations with security forces.

Other Conflict-related Abuses: The Internal Displacement Monitoring Center estimated that 540,000 persons were displaced due to conflict in Jammu and Kashmir, the Northeastern States, and the Naxalite belt.

Tens of thousands of Kashmiri Pandits (Hindus) have fled the Kashmir Valley to Jammu, Delhi, and other areas in the country since 1990 because of conflict and violent intimidation by separatists. According to the Ministry of Home Affairs' 2012-13 annual report, 59,442 Kashmiri Pandit families remained displaced from their homes.

Violence between ethnic groups in the states of Assam, Manipur, and Mizoram displaced an unknown number of persons during the year, and more than 115,000 internally displaced persons (IDPs) remained from previous incidents of communal violence dating back to 1993.

In central and eastern India armed conflicts between Naxalite (Maoist) insurgents and government security forces over land and mineral resources in tribal forest areas continued, affecting 182 of the country's 626 districts in 20 of its 28 states. Human rights advocates argued that the government's operations sought not only to suppress the Naxalites but also to force tribal persons off their land, allowing for commercial exploitation.

IDP camps continued to operate in Chhattisgarh for displaced tribal persons caught in fighting between Naxalites and the state-sponsored militia Salwa Judum in 2006. Statistics posted in March by the International Displacement Monitoring

Centre (IDMC), operated by the Norwegian Refugee Council and the United Nations, reported at least 148,000 IDPs in the Naxalite conflict areas, mostly located in the states of Chhattisgarh and Andhra Pradesh. Reports varied about how many have returned to villages (see section 2.d.).

The International Human Rights Clinic of the New York University School of Law reported that the government of Odisha committed several human rights abuses while supporting a large steel project implemented by POSCO, a South Korean company. These included the violent dispersion of peaceful protesters and illegal detention of activists and citizens who opposed the project. According to the report, many villages were blockaded, and up to 22,000 persons faced displacement from their land and loss of their livelihood. According to the report, NGOs stated that in February at least 30 women were in desperate need of medical attention but were unable to leave the affected area due to police barricades and threats of violence or arbitrary arrest. The Observatory for the Protection of Human Rights Defenders, an international NGO consortium, criticized what it described as the arbitrary arrest of a leading project opponent, Abhay Sahoo, on May 11. Police alleged he was involved in a bombing in the project area that killed three persons. Authorities had arrested Sahoo several times before, but he has not faced a trial.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

The constitution provides for freedom of speech and expression, but it does not explicitly mention freedom of the press. The government generally respected these rights.

Freedom of Speech: Individuals generally may criticize the government publicly or privately without reprisal, but authorities arrested citizens to impede criticism of the government. For example, on May 12, police in Ongole, Andhra Pradesh, arrested civil liberties activist Jaya Vindhyala under section 66A of the IT Act of 2000. Authorities charged Vindhyala with posting “objectionable and defamatory” comments against Tamil Nadu Governor K. Rosaiah and Andhra Pradesh politician A. Krishna Mohan on her Facebook page. She secured bail on May 14, and the case remained pending at year’s end. Civil liberties groups and human rights defenders alleged that the arrest was motivated by her public allegations about local politicians’ unlawful activities.

Press Freedoms: The independent media were active and expressed a wide variety of views without restriction. Independent newspapers and magazines were published regularly, and television channels broadcast investigative reports including allegations of government wrongdoing. The media generally promoted human rights and criticized perceived government violations. AM radio broadcasting remained a government monopoly. Ownership of private FM radio stations was legal, but licenses authorized only entertainment and educational content. With the exception of radio, foreign media generally operated freely. Widely distributed private satellite television provided competition for Doordarshan, the government-owned television network.

In September 2012 Mumbai police arrested cartoonist Aseem Trivedi for exhibiting cartoons allegedly mocking parliament and the national symbol, Ashoka Pillar, in 2011. Mumbai police initially charged Trivedi with sedition under section 124 (A) of the penal code, under the IT Act for displaying the cartoons on his website, and under the 1971 National Emblem Act for insulting the country's national symbols. After widespread public criticism, the Maharashtra government dropped the sedition charges and released Trivedi on bail, but the charges under the National Emblem and IT Acts remained. In February the Maharashtra government announced that it would file new charges against Trivedi for offenses under sections 294 (obscene acts and songs, to the annoyance of others) and 295 (destroying, damaging or defiling any place of worship) of the penal code and sections of the Prevention of Insults to National Honour Act, 1971. Authorities did not re-arrest him on the new charges.

The Tamil Nadu public prosecutor filed a complaint against Siddharth Varadarajan, then editor of the *Hindu*, for defaming the state's chief minister, J. Jayalalithaa. The newspaper published remarks made by M. Karunanidhi, chief of the opposition party Dravida Munnetra Kazhagam, that allegedly defamed Chief Minister Jayalalithaa and actor Kamal Haasan related to the ban on the film, *Vishwaroopam*. On July 2, the principal session judge issued a nonbailable warrant for Varadarajan, but Varadarajan was not arrested.

Violence and Harassment: There were reports that journalists experienced violence and harassment as a result of their reporting during the year. For example, on April 18, Ashish Tamrakar, a Bharatiya Janata Party (BJP) municipal council member in Chhattisgarh and his supporters assaulted the Korba-based bureau chief Praveen Tripathi of the Hindi newspaper *Patrika*, who wrote a series of news reports about corruption in the municipal council. Police arrested Tamrakar on June 8.

On June 7, Trinamool Congress party workers in Barrackpore, West Bengal, attacked two journalists. Both journalists worked for Bengali news outlets known to be critical of Trinamool and the state government and were covering reported violence between Trinamool factions in the area. Authorities arrested 13 persons in connection with the incident. The case remained pending at year's end.

Censorship or Content Restrictions: The law prohibits content that could harm religious sentiments or provoke enmity among groups. State governments banned some books from being imported or sold in the state because they contained material that government censors deemed inflammatory and apt to provoke communal or religious tensions. For example, under the Customs Act, it remained illegal to import Salman Rushdie's book, *The Satanic Verses*.

The Central Board of Film Certification in Kolkata denied approval to the Bengali film, *War Cry of Beggars*. The film's director alleged that the board objected to comments in the film on the movement against the Trinamool government's land acquisition in Singur, West Bengal. Authorities cleared the film, with cuts, in March.

Activists disrupted a September 7-12 film festival in Hyderabad, "Kashmir Before Our Eyes." On September 7, Hindu activists vandalized a film studio that was scheduled to screen the movie, while police allegedly prohibited the screening of another movie at a cultural center in the city on September 10. The Censor Board had previously cleared all the films.

Libel Laws/National Security: The Tamil Nadu government banned the screening of the film, *Vishwaroopam*, citing the potential for communal tensions since the film depicted scenes with terrorists belonging to the Muslim religion saying their prayers before going on attacks. The state government brokered a compromise between leaders of several Muslim organizations and the actor-producer who agreed to edit seven scenes.

## **Internet Freedom**

According to the 2011 census, 6.3 percent of the total population had access to computers or laptops within the household. Half of those with computers or laptops had internet access, and many more citizens had access to the internet through cyber cafes and mobile telephones.

According to industry experts, approximately 10 percent of the population had access to the internet. An independent BBC report stated that 121 million citizens were on the internet. According to the Telecom Regulatory Authority of India, 200 million new mobile users subscribed in 2012-13.

There were some government restrictions on access to the internet and reports that the government occasionally monitored users of digital media, such as chat rooms and person-to-person communications. The IT Act permits the government to block internet sites and content and criminalizes sending messages the government deems inflammatory or offensive. Both central and state governments have the power to issue directions for blocking, intercepting, monitoring, or decrypting computer information. In April the Central Monitoring System began operations, allowing several agencies to monitor electronic communications in real time without informing the target or a judge.

The government requests user data from internet companies. According to Facebook's August transparency report for the first half of the year, the government made 3,245 requests for access to user information. Facebook found sufficient justification to comply with approximately half of those requests. Google also highlighted in its most recent transparency report a steady increase in government requests to share user data.

Government regulations on internet content prohibit many types of content, including "harmful" and "insulting" content. Search engines may be held liable for displaying prohibited content. Cyber cafes are required to install surveillance cameras and provide the government with records of user browsing activity.

On April 29, the Mumbai-based MouthShut.com, a consumer review website, filed a petition to nullify the country's IT Rules (2011). The Supreme Court issued notices to central and state governments in May after the petition was filed. MouthShut.com argued that the IT rules restrict freedom of expression and that the definition of permissible and prohibited online content is too vague. The company sought protection from legal liability for internet intermediaries that host online content. Mouthshut.com and other internet companies received numerous notices from police that demanded either withdrawal of the content or sought the identity of those posting reviews on their websites.

In February a local court in Gwalior issued blocking orders for more than 70 uniform resource locators (URLs) that questioned the legitimacy and reputation of a private educational institution, including one URL of a government website that



verified that the business was not a certified educational institution. The ease with which the owner of this private institution obtained blocking orders against URLs critical of his business prompted criticism from internet freedom advocates.

Several public interest litigations (PILs) have been submitted to various courts against internet companies, some seeking to force the companies to establish servers in the country that would facilitate the government's access to user information. There were reports that these cases were linked to various government officials.

The Delhi High Court in a recent hearing noted that domestic law bound social networking sites and search engines and directed all companies to display on their websites the name and contact details of their grievance officers who would serve as points of contact for continuing government requests for user information.

Review of implementation guidelines and rules of the IT Act remained pending despite a public statement by the Ministry of Communication and Information Technology in late 2012 that the act would be thoroughly reviewed.

### **Academic Freedom and Cultural Events**

The government continued to apply restrictions to the travel and activities of a few visiting experts and scholars. Academic guidelines issued by the Ministry of Human Resources Development require all central universities to obtain ministry permission before organizing "all forms of foreign collaborations and other international academic exchange activities," including seminars, conferences, workshops, guest lectures, and research. In most cases the ministry permitted international academic exchanges to take place.

Local media reported that Salmon Rushdie's planned January visit to Kolkata was canceled because of objections by the state government and an ultimatum issued by police. Rushdie was scheduled to be in the city to promote the film, *Midnight's Children*, based on his novel.

On July 29, Madras University cancelled a lecture program on "Gender and Reform in Islam" by a visiting Islamic scholar, Amina Wadud, citing police alerts on possible law-and- order problems in view of opposition by Muslim groups.

### **b. Freedom of Peaceful Assembly and Association**

The law provides for freedom of assembly and association, and the government generally respected these rights.

### **Freedom of Assembly**

The law provides for freedom of assembly. Authorities normally required permits and notification before parades or demonstrations, and local governments generally respected the right to protest peacefully, except in Jammu and Kashmir. In this state the local government sometimes denied permits to separatist parties for public gatherings, and security forces sometimes detained and assaulted separatists engaged in peaceful protest (see section 1.g.). During periods of civil tension, authorities used the criminal procedure code to ban public assemblies or impose a curfew.

There were restrictions on the organization of international conferences. NGOs were required to secure approval from the Ministry of Home Affairs before organizing international conferences. Authorities typically granted permission, but the process was lengthy. Human rights groups contended that this practice provided the government with political control over the work of NGOs and restricted their freedom of assembly and association.

### **Freedom of Association**

Although the law provides for freedom of association, and the government generally respected this right, regulations restrict the organization of conferences funded with foreign funds, which both the Ministry of Home Affairs and the ministry concerned with the conference topic must approve.

NGOs continued to complain about the restrictive Foreign Contributions Regulation Act (FCRA), which bars NGOs that receive foreign funding from engaging in political activity or activity “of a political nature” and prohibits political organizations or associations engaged in the production and broadcast of audio or audiovisual news or current affairs programs from accepting foreign contributions. Human rights organizations expressed concern about the undefined category of “political nature” and stated that the act could be applied in an arbitrary way. Activists believed that strict regulations on foreign funding threatened the independence of NGOs. They also alleged that NGOs owned by politicians continued to receive funding from foreign sources.

Responding to a writ petition, the Delhi High Court overruled a home ministry order that suspended without further explanation the FCRA license of the Indian Social Action Forum, a network of more than 700 grassroots organizations and people's movements, for activities "prejudicial to public interest." The Ministry of Home Affairs had frozen the organization's bank account and suspended its license on April 30. The high court set aside the ministry's order and ruled that the government could only suspend an organization's certificate for reasons recorded in writing, which had to be incorporated in the suspension order itself.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt/](http://www.state.gov/j/drl/irf/rpt/).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to some but not most IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. The government generally only allowed the UNHCR to assist asylum seekers and refugees from noncontiguous countries. The country hosted a large refugee population.

In-country Movement: The central government continued to require special permits for nationals and foreigners to travel to parts of Arunachal Pradesh and Jammu and Kashmir. State governments required nationals to obtain special permits upon arrival for travel to these areas.

Security forces often searched and questioned vehicle occupants at checkpoints, mostly in troubled areas in the Kashmir Valley, before public events in New Delhi, or after major terrorist attacks.

Foreign Travel: The government legally may deny a passport to any applicant who it believes may engage in activities outside the country "prejudicial to the sovereignty and integrity of the nation."

Citizens from Jammu and Kashmir continued to face extended delays, often as long as two years, before the Ministry of External Affairs would issue or renew their passports. The government subjected applicants born in Jammu and Kashmir – including children born to military officers during their deployment in the state – to additional scrutiny, requests for bribes, and police clearances before issuing them passports.

Based on the state criminal investigation department records of her uncle, a former militant who surrendered in 1995, the Jammu and Kashmir state government did not initially grant a passport to Kashmiri teenager Sufaira Jan, who was selected for a one-year scholarship overseas. Following media pressure and further security clearance reviews, the government granted her a passport.

### **Internally Displaced Persons (IDPs)**

Several groups of IDPs were in various locations in the country, including those displaced by internal armed conflicts in Jammu and Kashmir, the Naxalite belt, the Northeastern States (see section 1.g.), and Gujarat. According to 2012 statistics from the IDMC, regional conflicts displaced at least 506,000 persons. Estimating the exact number of those displaced by conflict or violence was difficult, because no central government agency was responsible for monitoring the numbers of those displaced or returning, and humanitarian and human rights agencies had limited access to camps and affected regions. While those who resided in official IDP camps were registered, an unknown number stayed outside the camps. Many IDPs did not have sufficient access to food, clean water, shelter, and health care. IDPs who returned to their places of habitual residence often were disadvantaged or faced discrimination because of their displacement.

On August 27, clashes began between the Hindu and Muslim communities in Muzaffarnagar, Uttar Pradesh, and led to the displacement of more than 42,000 persons, according to a fact-finding report submitted by the Centre for Policy Analysis. State governments organized relief camps in Muzaffarnagar and Shamli Districts for riot victims from approximately 9,000 families.

An NHRC team assessed the state government efforts for relief and rehabilitation of displaced persons in October and December. The NHRC reported that approximately 40 children died due to extreme cold in the relief camps and made several recommendations to the state governments. The recommendations included providing compensation to families of those who died in the camps,

providing adequate clothing and blankets, registering the names and addresses of all displaced persons, providing drinking water, improving sanitation, and providing regular medical checkups. State government officials claimed that they provided proper compensation to the displaced families as well as blankets, drinking water, medical check-ups, and free medicine to those in the camps. The media and civil society activists, however, reported that conditions in the camps were “unhygienic and subhuman.” On December 27, the state government began relocating riot victims. Some of those affected alleged that they were being forcefully evicted from their camps without being provided proper alternative shelters or due compensation. A journalist who visited the area stated that bulldozers demolished approximately 30 tents in the Loi relief camp. According to official sources, 4,783 persons were living in the relief camps in Muzaffarnagar and Shamli at year’s end.

Paramilitary operations against Maoists displaced the Gutti Koya tribe in the Dandakaranya forests in Chhattisgarh, and its members migrated to the neighboring Khammam and Warangal Districts in Andhra Pradesh. According to an activist working among the Gutti Koya in Khammam District, an estimated 16,000 tribal members settled in Andhra Pradesh, while others moved between the states. A few local officials undertook sporadic initiatives to provide rationed food, work under National Rural Employment Guarantee Act, education for Gutti Koya children under the Right to Education program, and health care.

Nearly all of the 450,000 persons displaced during the Assam violence in 2012 returned to their villages by the end of the year. The Government of Assam had closed all but six of the 270-plus relief camps established after the height of violence. The state government provided 20,000 rupees (\$325) compensation and assisted the return to villages. Many of the returning inhabitants lived in makeshift homes or tents in areas protected by security forces.

A decade after the 2002 communal riots in Gujarat, the 2013 *Study on Internally Displaced Persons of India* by the Centre for Social Justice reported 3,964 internally displaced families in 86 settlements in Gujarat, all of them Muslim. The study reported that 30 percent of the IDPs had not received any aid and the rest had been inadequately compensated. The Gujarat government, which initially claimed there were no IDPs, continued to hold back compensation although the central government directed it to provide compensation. The state government also denied identified IDPs their entitlements under various social welfare programs, and the camps lacked basic amenities such as drinking water, power, sanitation, health

care, and education. Having lost access to their previous jobs or farmlands, most displaced persons worked as casual laborers.

Studies varied regarding estimates of members of indigenous tribes displaced due to the insurgency in Chhattisgarh. The IDMC estimated that 148,000 IDPs lived in the central region, mostly coming from Chhattisgarh and moving into Andhra Pradesh. According to reports, the Chhattisgarh government failed to acknowledge the IDPs in Andhra Pradesh camps as Chhattisgarh citizens, and the Andhra Pradesh government provided little support.

For the IDPs in South Chhattisgarh, particularly in Dantewada, called the “liberated zone,” there continued to be few or no government services or provisions. IDPs faced limited access to food, drinking water, health care, and educational facilities. The IDPs lived in makeshift homes, and security agencies reportedly branded them as Maoist supporters and committed abuses, according to the Social Justice Centre’s 2013 *Study on Internally Displaced Persons of India*.

The government had no national policy or legislation to address internal displacement resulting from armed conflict or from ethnic or communal violence. The responsibility for assisting IDPs was delegated to the state governments and district authorities, allowing for gaps in services and poor accountability. When provided, state- or district-level assistance was often ad hoc and inadequate. The central government provided some assistance to IDPs and allowed them access to NGOs and human rights organizations, but neither access nor assistance was standard for all IDPs or all situations.

### **Protection of Refugees**

The Foreigners Act (1946) does not contain the term “refugee,” treating refugees as any other foreigners. Under this act physical presence in the country without valid travel or residential documents is a criminal offense, rendering refugees without appropriate documentation vulnerable to refoulement and other abuses. There were no reports that the government refouled refugees during the year. The government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Access to Asylum: Absent a legal framework, the government occasionally granted asylum and refugee status on an ad hoc basis on humanitarian grounds in

accordance with international law. This approach resulted in varying standards of protection for different refugee groups. The government recognized refugees from Tibet and Sri Lanka and honored UNHCR decisions on refugee status determination for individuals from other countries. More than 272,000 refugees lived in the country, including 150,000 Tibetans and more than 68,000 Sri Lankans in 112 refugee camps and 32,000 outside the camps. Most of the 3,811 asylum seekers and 22,079 refugees registered with the UNHCR office in New Delhi were from Burma and Afghanistan. According to the UNHCR and its partners, a small number of urban refugees and asylum seekers were in cities like Pune and Hyderabad due to the cheaper cost of living and availability of employment. NGOs reported there were an additional 80,000 to 100,000 Burmese Chin refugees in the Mizoram region.

The UNHCR had no formal status in the country, but the government permitted its staff access to refugees in urban centers and allowed it to maintain a local office in Tamil Nadu to assist with Sri Lankan refugee voluntary repatriation. Authorities did not permit the UNHCR direct access to Sri Lankan refugee camps, Tibetan settlements, or asylum seekers in Mizoram but did permit asylum seekers from Mizoram to travel to New Delhi to meet UNHCR officials. The government generally permitted NGOs, international humanitarian organizations, and foreign governments access to Sri Lankan refugee camps and Tibetan settlements, but it also generally denied them access to populations of asylum seekers in Mizoram. The UNHCR provided refugee status and assistance to approximately 3,000 to 4,000 Burmese living in New Delhi, primarily Chin, but did not have access to the larger population of ethnic Chin living in the Northeastern States. The UNHCR estimated that 5,600 refugees and 4,000 asylum seekers from Burma were registered in New Delhi and tens of thousands more were not registered.

The People's Union for Civil Liberties pointed out that in August the government ordered three Sri Lankan refugees with alleged connections to the banned terrorist organization Liberation Tigers of Tamil Eelam deported back to Sri Lanka. The Peoples Union of Civil Liberties appealed to the state chief minister to stop the deportation.

After the Sri Lankan civil war ended, the government stopped registering persons who came from Sri Lanka as refugees. Nearly 32,000 Sri Lankan refugees living outside the camps have registered with local police. The Tamil Nadu government assisted the UNHCR by providing exit permission for Sri Lankan refugees to repatriate voluntarily. According to the UNHCR, 520 persons repatriated voluntarily between January and August.

Refugee Abuse: The problems of domestic violence, sexual abuse, and early marriage continued. Gender-based violence and sexual abuse was common in camps for Sri Lankans. Many urban refugees worked in the informal sector or in highly visible occupations, such as street vending, where they were subject to police extortion, nonpayment, and exploitation.

Employment: According to the NGO Adventist Development and Relief Agency, local IT companies selected a few refugees for white-collar jobs but later did not confirm their appointments because of their refugee status.

Access to Basic Services: The 80,000 to 100,000 Burmese Chin asylum seekers in Mizoram generally reported fair access to housing, education, and health services. Because most Chin refugees lacked legal status, however, and were unable to work legally, they had inadequate income to meet their basic needs and remained vulnerable to abuse, discrimination, and harassment.

Although the country generally allowed recognized refugees and asylum seekers access to housing, primary and secondary education, health care, and the courts, access varied by state and by population. Refugees generally worked in the informal sector without formal work authorization. In 2012 the government began allowing UNHCR-registered refugees and asylum seekers to apply for long-term visas that would provide work authorization and access to higher education. The UNHCR provided letters to the government for more than 2,500 long-term visa applicants, but authorities granted only a limited number of refugees such visas.

### **Stateless Persons**

By law citizenship is derived from one's parents, and birth within the country does not provide assured citizenship. Any person born in the country on or after January 26, 1950, but before July 1, 1987, obtained citizenship by birth. A person born in the country on or after July 1, 1987, obtained citizenship if either parent was a citizen at the time of the child's birth. Those born in the country on or after December 3, 2004, were considered citizens only if at least one parent was a citizen and the other was not an illegal migrant at the time of the child's birth. Persons born outside the country on or after December 10, 1992, were considered citizens if either parent was a citizen at the time of birth, but those born outside the country after December 3, 2004, were not considered citizens unless their birth was registered at an Indian consulate within one year of the date of birth. Only in certain circumstances and with the permission of the government was it possible to



register after one year. Citizenship also could be obtained through registration under specific categories and via naturalization after residing in the country for 12 years. Ethnic Tibetans sometimes faced difficulty acquiring citizenship although they met the legal requirements.

According to the UNHCR and NGOs, the country had a large population of stateless persons, but there were no credible estimates of the number. Stateless populations included Chakmas and Hajongs, who migrated to the country decades ago from present-day Bangladesh, and groups affected by the 1947 partition of the Indian subcontinent into India and Pakistan.

Approximately 70,000 stateless Bangladeshi Chakma persons lived in Arunachal Pradesh.

The UNHCR and refugee advocacy groups estimated that 25,275 of the approximately 100,000 Sri Lankan Tamil refugees living in Tamil Nadu were “hill country” Tamils. While Sri Lankan law allows “hill country” refugees to present affidavits that may be used to secure Sri Lankan citizenship, the UNHCR believed that until the Sri Lankan government processes their paperwork, such refugees may potentially be considered stateless. Tamil Nadu state authorities and the diplomatic mission of Sri Lanka to India had a cooperative program to register as Sri Lankan citizens children born to Sri Lankan Tamil refugees living in India.

### **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

#### **Elections and Political Participation**

Recent Elections: In 2009 the country held a five-phase national election that included 714 million eligible voters. National and local security forces helped to provide a relatively smooth election, although 65 persons died in voting-related violence. The Congress party-led United Progress Alliance coalition government headed by Prime Minister Manmohan Singh continued in power for a second term.

During the year elections took place in Tripura, Meghalaya, Nagaland, Karnataka, Delhi, Rajasthan, Madhya Pradesh, Chhattisgarh, and Mizoram. The elections were largely peaceful, without any major violence.

On May 25, nearly 150 insurgents attacked a convoy of Congress Party leaders in Chhattisgarh, killing 17 persons and injuring 20 others, including V.C. Shukla, a former minister. Joint Secretary M.A. Ganpathy of the Ministry of Home Affairs told a news agency in New Delhi that most of the dead and injured were Congress Party leaders and workers.

The West Bengal State Election Commission stated that it was a “matter of concern” that 15 percent of candidates in the first round of the state’s local council polls won uncontested. The ruling Trinamool Congress Party won approximately 95 percent of those seats. Rivals claimed that their candidates were not allowed to campaign or file nominations and cited increased political violence, which Trinamool denied.

Participation of Women and Minorities: The law requires one-third of the seats in local councils to be reserved for women. Religious, cultural, and traditional practices and ideas as well as structural barriers prevented women from participating in political life on the same basis as men. Nonetheless, women held many high-level political offices, including positions as ministers (12), members of parliament (62 in the lower house and 28 in the upper house), members of the Supreme Court (two), and state chief ministers (three – Delhi, Tamil Nadu, and West Bengal). Women participated in politics throughout the country at all levels.

Kerala and Odisha reserve 50 percent of seats in urban local bodies for women, building on an existing 50 percent reservation for women in village councils in those states. Assam, Bihar, Chhattisgarh, Madhya Pradesh, Maharashtra, and West Bengal reserve 50 percent of seats in local councils for women.

The constitution stipulates that, to protect historically marginalized groups and provide for representation in the lower house of parliament, each state must reserve seats for Scheduled Castes (SCs) and Scheduled Tribes (STs) in proportion to their population in the state. Only candidates belonging to these groups may contest elections in reserved constituencies. In the 2009 elections, 84 seats for candidates from the SCs and 47 seats for those from the STs were reserved, representing 24 percent of the total seats in the lower house. Members of minority populations served as prime minister, vice president, cabinet ministers, Supreme Court justices, and members of parliament.

## Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption. The government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity.

Corruption: Corruption was present at all levels of government. The CBI registered 583 cases of corruption between the months of January and November. The Central Vigilance Commission (CVC) received 7,224 cases in 2012. Of those, 5,528 were received in 2012 and an additional 1,696 remained from 2011. The commission recommended action on 5,720 cases. The CVC operated a toll-free hotline to lodge complaints and a web portal to share information. NGOs noted that bribes typically were paid to expedite services, such as police protection, school admission, water supply, or government assistance. Civil society organizations drew public attention to corruption throughout the year, including through public demonstrations and websites that featured individual stories of corruption.

The government designated chief vigilance officers to address public complaints and grievances in the banking, insurance, and other sectors serviced by private, public, and corporate bodies. Parliament passed a bill in December establishing an ombudsman organization known as a Lokpal to investigate allegations of government corruption.

Many government-run programs to alleviate poverty and provide employment suffered from poor implementation and corruption. For example, after obtaining government documents under the RTI Act, a petitioner alleged misappropriation of funds in the Maharashtra Tribal Development Department. On June 13, the Bombay High Court ordered that a special team be formed to investigate an alleged fraud in which money meant for tribal welfare was used for other purposes.

A case against several suspects, including Tiruvannamalai municipality councilor K.V.N. Venkatesan – connected to the July 2012 killing of social activist Rajamohan Chandra, who had filed public-interest litigation cases against government officials, politicians, and realtors suspected of corruption and land grabbing – awaited trial at year's end. In December a commission probing the role of state chief ministers and other officials in the 2012 Adarsh housing scam involving improper allocations of apartments reserved for veterans and war

widows submitted its report to the Maharashtra legislative assembly, but the Maharashtra state government rejected the report.

The trial of former telecommunications minister A. Raja and M.K. Kanimozhi, a member of the upper house of parliament, accused of taking bribes in the rigged sale of the 2G mobile telephone spectrum in 2008, did not conclude by year's end.

On August 7, Justice R.A. Mehta refused to become the Gujarat Lokayukta, the state anticorruption ombudsman authority, even after the Supreme Court upheld his appointment, and remarked that the state government would not support his investigations. The Gujarat government sought to amend the Gujarat Lokayukta Act in April, to curtail the primacy of the governor and chief justice of the high court in the ombudsman's appointment and subject the appointing powers only to the chief minister's decision. The state governor refused to sign the bill.

Whistleblower Protection: The law does not provide protection to public and private employees for making internal disclosures or lawful public disclosures of evidence of illegality, such as the solicitation of bribes or other corrupt acts.

Financial Disclosure: The law mandates asset declarations for all officers in the Indian Administrative Services. Both the Election Commission of India and the Supreme Court upheld mandatory disclosure of criminal and financial records for election candidates. Unreported money reportedly often funded election campaigns for parliament and state legislatures, and the government typically failed to control the practice.

Public Access to Information: The law provides for public access to information. Although the government was often slow in response to requests, local community members as well as noncitizens could access the RTI online portal to get information on personal documentation, city plans, and other public records. Only citizens can request RTI information. The government charged a fee of 11 rupees (\$0.18) per request. Citizens may appeal request denials to the Central Information Commission and then to the appropriate high court. Activists expressed concern that public authorities remained unable to implement the RTI Act adequately, hindering the supply of information, and that rural inhabitants were not always aware of their rights under the act.

Many states also have right-to-information laws. The fee schedule and regulations for state-level RTI queries vary.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A wide variety of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. In a few circumstances, groups faced restrictions. Government officials were somewhat cooperative and responsive to their views. The country hosted more than three million NGOs that advocated for social justice, sustainable development, and human rights. The government generally met with domestic NGOs, responded to their inquiries, and took action in response to their reports or recommendations. The NHRC worked cooperatively with numerous NGOs, and NGOs had representation on several NHRC committees. Human rights monitors in Jammu and Kashmir were able to document human rights violations, but security forces, police, and counterinsurgents at times restrained or harassed them.

Some international human rights NGOs faced difficulties obtaining visas for their representatives, and occasional official harassment and restrictions limited the public distribution of materials. Medecins Sans Frontieres continued to work in parts of South Chhattisgarh in the Naxalite-affected area.

According to a human rights lawyer of the southern Indian human rights NGO People's Watch, the Ministry of Home Affairs froze the foreign contribution accounts of many NGOs in Tamil Nadu in order to impede activists protesting the completion of the Russian-built nuclear plant at Kudankulam. The People's Watch account has been suspended since July 2012.

UN and Other International Bodies: The government permitted representatives of the United Nations and other international humanitarian organizations, such as the ICRC, access to the Northeastern States and Naxalite-controlled areas.

The ICRC continued work with the Indian Red Cross in Nagaland, Chhattisgarh, and Assam to provide household items, water, and sanitation facilities for persons displaced by ethnic violence. UN Special Rapporteur on Violence Against Women Rashida Manjoo visited Manipur in April.

On June 13, the Chhattisgarh state government ordered the ICRC to suspend its work in the Naxalite-affected Bastar region. The ICRC had provided health care facilities in the Naxal-affected tribal area for the previous two and a half years, after receiving formal approval from Chhattisgarh Chief Minister Raman Singh in 2010. With the government asking the ICRC to get a No Objection Certificate to

work in a conflict area from the state government, the Chhattisgarh government suspended operations, wary of internationalizing the Maoist insurgency problem by the presence of an international aid agency. The United Nations Children's Fund (UNICEF) worked in various parts of South Chhattisgarh in the Naxalite-affected area.

Government Human Rights Bodies: The NHRC is an independent and impartial investigatory and advisory body, established by the central government, with a two-pronged mandate to investigate and remedy instances of human rights violations and to promote public awareness of human rights. It is directly accountable to parliament but works in close coordination with the Ministry of Home Affairs and the Ministry of Law and Justice. It has a mandate to address public servants' violations of human rights or negligence in the prevention of violations, intervene in judicial proceedings involving allegations of human rights violations, and review any factors (including acts of terrorism) that infringe on human rights. The NHRC has the ability to summon and enforce witness attendance, produce documentation, and requisition public records. The NHRC also recommends appropriate remedies for alleged wrongs in the form of compensation to the families of individuals killed or harmed extrajudicially by government personnel. It has neither the authority to enforce the implementation of its recommendations nor the power to address allegations against military and paramilitary personnel.

Some human rights groups claimed that institutional and legal weaknesses hampered the work of the NHRC. While the NHRC has the authority to initiate investigations, inquire into complaints, or request that state governments submit a report – requests that state governments often ignored – it does not have the statutory power to enforce requests, initiate proceedings for prosecution, or grant interim compensation, nor may it inquire independently into human rights violations by the armed forces. Human rights NGOs criticized the NHRC's financial dependence on the government and its failure to investigate abuses more than one year old. They claimed that the NHRC did not register all complaints, dismissed cases on frivolous grounds, failed to investigate cases thoroughly, and did not adequately protect complainants.

According to the NHRC's statistics, the commission received 7,806 complaints through October, of which 6,679 complaints were processed. There were 28,929 old and new complaints still under review.

Twenty-three of the 28 states also have human rights commissions (SHRCs), which hold independent investigations but work under the NHRC. In seven states the position of chairperson remained vacant. Human rights groups alleged that SHRCs were limited by local politics and less likely to offer fair judgments than the NHRC.

The HRLN, which was carrying out a nationwide evaluation of SHRCs, observed that in most cases they had little or no minority, civil rights activist, or female representation. The HRLN observed that in cases of serious human rights violation, the SHRCs remained ineffective and at times hostile toward victims, were hampered by political appointments, lacked staff, and were seriously limited financially.

For example, activists in Andhra Pradesh reported dissatisfaction with the SHRC. The commission did not have an investigative wing of its own, resulting in its dependence on the regular police machinery to carry out investigations. This hampered its effectiveness, especially in cases in which the complaint was against police excesses or brutality. The commission did not act quickly in cases in which there was a threat to life. It did not update its website and insisted that complaints be filed in a prescribed format not easily understood by the average citizen. The commission's annual reports were not presented to the state legislature or discussed in the legislature in an effort to improve its functioning.

The Jammu and Kashmir commission did not have the authority to investigate alleged human rights violations committed by members of paramilitary security forces. The NHRC has jurisdiction over all human rights violations, except in certain cases in which the army is involved. In those cases the states of Jammu and Kashmir are covered under the Armed Forces Special Powers Act, as in all other parts of the country. Since the Ministry of Home Affairs controls paramilitary forces, the NHRC has full authority to investigate the cases of human rights violations committed by the paramilitary forces in the Northeast States and Jammu and Kashmir.

On April 11 and 12, the NHRC held its first hearing in a Naxalite-affected area in Raipur, Chhattisgarh. It issued directives and recommended fines of two million rupees (\$33,000) in 27 cases of human rights violations. The NHRC issued decisions against government officials and directed law enforcement probes or fines in various cases of human rights violations. Cases included forced hysterectomies, false encounters, a gang rape of tribal girls in government hostels, and deaths of inmates held in government custody. Additionally, NHRC officials

met government officials and NGOs and heard allegations that police and security forces committed human rights violations while tackling the insurgency.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The law prohibits discrimination on the basis of race, gender, disability, language, place of birth, caste, or social status. The government worked with varying degrees of success to enforce these provisions.

### **Women**

**Rape and Domestic Violence:** The law criminalizes rape, except spousal rape when the woman is over age 15. Punishment ranges from prison terms of two years to life, a fine of 20,418 rupees (\$333), or both. Official statistics pointed to rape as the country's fastest growing crime. The NCRB reported 24,923 cases of rape nationwide in 2012, the latest year for which data were available. Observers considered rape an underreported crime. Law enforcement and legal avenues for rape victims were inadequate, overtaxed, and unable to address the problem effectively. Law enforcement officers sometimes worked to reconcile rape victims and their attackers, in some cases encouraging female rape victims to marry their attackers. Doctors sometimes further abused rape victims who reported the crimes by using the "two-finger test" to speculate on their sexual history. The Supreme Court ruled in May that this practice violated the rape victim's right to privacy and asked the government to provide better alternatives.

The Verma Commission, created following the December 2012 gang rape and killing of a 23-year-old woman and assault on her companion on a moving bus in New Delhi, identified areas of legislative reform to address crimes against women, some of which subsequently became law. The Criminal Law Amendment bill, passed in February, revised the penal code to introduce more stringent punishments for rape and other gender-based violence. Of the six persons accused in the December 2012 case, a court convicted four men and sentenced them to death, and convicted one juvenile and sentenced him to three years in custody. A fifth adult allegedly committed suicide in police custody before trial.

While authorities tried the six accused in the December 2012 Delhi rape case quickly, rapes outside of the national capital were not dealt with as swiftly. There remained concern that little progress was made for women since the Delhi rape case. Many investigations and legal proceedings relating to earlier rape cases during the year remained pending.



On June 7, a college student was raped and killed in Barasat, West Bengal. The state government faced widespread criticism after first offering the student's family compensation and jobs, in an implied exchange for refraining from publicizing the crime. The family members refused, saying that all they wanted was punishment for the guilty. Police subsequently arrested eight men but were criticized for filing an incomplete charge sheet.

A 22-year-old photojournalist was gang raped in Mumbai on August 22 while she was on an assignment to take photos of an abandoned textile factory. Five assailants tied her colleague's hands with a belt while she was gang raped. Police arrested all five alleged assailants. The Mumbai police stated that the men had previously committed at least five rapes at the same abandoned factory.

On October 26, the 16-year-old daughter of a taxi driver from Bihar was gang-raped in Madhyamgram, near Kolkata. She was gang-raped again on her way home after submitting a complaint at the local police station. In early November the girl received repeated threats from the accused to withdraw the police complaint, which led her family to move from their home to the Dum Dum area. The victim's family alleged that on December 23, a close friend of one of the arrested culprits threatened severe consequences if she did not withdraw her complaint. Later the same day, her home was set on fire, and she died on December 31 as a result of the burns she sustained. Before dying she named the two men who set her house on fire to police. Authorities arrested the accused in both cases of rape and alleged murder, and the results of investigations were pending at year's end.

Women in conflict situations, such as in Jammu and Kashmir, and vulnerable women, including lower-caste or tribal women, were often victims of rape or threats of rape. National crime statistics indicated that, compared with other caste affiliations, rape was most highly reported among Dalit women.

The law provides for protection from some forms of abuse against women in the home, including verbal, emotional, and economic abuse, as well as the threat of abuse. The law recognizes the right of a woman to reside in a shared household with her spouse or partner while the dispute continues, although a woman may seek alternative accommodations at the partner's expense. Although the law also provides women with the right to police assistance, legal aid, shelter, and medical care, domestic abuse remained a serious problem. Lack of law enforcement safeguards and pervasive corruption limited the effectiveness of the law.

While the Ministry of Women and Child Development has guidelines for the establishment of these social services, lack of funding, personnel, and proper training resulted in limited services, primarily available only in metropolitan areas. The ministry reported that there were 6,483 protection officers appointed in police forces across the country. Police officials, especially in smaller towns, were reluctant to register cases of crimes against women, especially if the cases were against influential persons. For example, authorities did not immediately take Bapu Asaram, a high-profile Hindu leader, into custody, despite the fact that a minor made formal allegations of sexual assault against him.

State governments took action to prevent violence against women. For example, in December 2012 West Bengal Chief Minister Mamata Banerjee announced that her government would create 65 all-female police stations across the state to help tackle crimes against women. Ten of these stations were operational by year's end. On January 2, the West Bengal state cabinet met to identify steps to provide for swifter justice in cases of violence against women and decided to set up 88 permanent "fast-track" courts focused on timely hearings. No information was available as to how many of these courts existed by year's end.

In January the chief justice of the Kolkata High Court inaugurated the country's first women's court (where female judges and staff deal exclusively with crimes against women) in Malda, West Bengal, a district with the highest reported rate of crimes against women in the state.

Domestic violence continued to be a problem, and the National Family Health Survey revealed that more than 50 percent of women reported experiencing some form of violence in their home. The NCRB reported that in 2012 there were 106,527 reported cases of "cruelty by husband and relatives," an increase of more than 7.4 percent from the previous year. Advocates reported that many women refrained from reporting domestic abuses due to social pressures.

Available data from the NCRB showed that Tamil Nadu had the highest level in the country of cases of domestic violence: it registered 3,838 in 2012. According to NGOs the empowerment of women and better reporting resulted in higher numbers of domestic violence cases in Tamil Nadu.

Crimes against women were common. According to the NCRB Crime in India 2012 Statistics, there were 244,270 crimes against women in 2012, a 6.8 percent increase from 2011. These crimes included kidnapping, abduction, molestation,

sexual harassment, physical and mental abuse, and trafficking. The NCRB noted that underreporting of such crimes was likely. The NCRB estimated the conviction rate for crimes against women to be 26 percent. Delhi recorded the highest number of crimes against women with 5,194 cases, followed by Bengaluru, Karnataka, with 2,263.

Acid attacks against women caused death and permanent disfigurement. For example, on July 21, a 28-year-old woman died, and three others sustained injuries, following an acid attack by a former romantic interest in Morena District, Madhya Pradesh. Although the government maintained statistics on gender-based violence and general assaults, it did not disaggregate acid attacks.

Acid was commonly used as a household cleaner and was widely available at local markets. The Supreme Court issued an order on July 18 to regulate the sale of acid across the country. The government issued guidelines in August aimed at preventing attacks and also moved to oblige states to implement guidelines requiring dilution and licensing of acid sold in retail shops. Those who purchase acid are required to show identification and proof of residence. The guidelines also direct states to pay 300,000 rupees (\$4,880) to victims of acid attacks and treat victims free of cost at government hospitals. Individuals convicted of acid attacks face a minimum of 10 years and a maximum of life in prison. The new regulations were not fully implemented in all states by year's end and were inconsistently enforced where implemented.

Harmful Traditional Practices: The law forbids the provision or acceptance of a dowry, but families continued to offer and accept dowries, and dowry disputes remained a serious problem. The law also bans harassment in the form of dowry demands and empowers magistrates to issue protection orders. According to the NCRB, in 2012 there were 8,233 reported dowry deaths, mostly bridal deaths at the hands of in-laws for failure to produce a dowry. Uttar Pradesh had the highest number of dowry deaths with 2,244 cases, followed by 1,275 cases in Bihar. Since many cases were not reported or monitored, however, statistics were incomplete. The NCRB reported that authorities arrested 33,240 persons and convicted 4,296 persons for dowry death in 2012. According to the NCRB dowry deaths doubled in Kerala from 15 dowry deaths reported in 2011 to 32 deaths in 2012.

“Sumangali schemes” affected an estimated 120,000 young women. These plans, named after the Tamil word for “happily married woman,” were a form of societal abuse and bonded labor in which young women or girls worked to earn money for a dowry, without which they would not be able to marry. The promised lump-sum

compensation, ranging from 30,000 to 56,000 rupees (\$488 to \$910), was withheld until the end of three to five years of employment, although such compensation sometimes went partially or entirely unpaid at the end of that term. During their years of bonded labor, the women were subjected to serious workplace abuses, severe restrictions on freedom of movement and communication, sexual abuse, sexual exploitation, sex trafficking, and death. The majority of sumangali-bonded laborers came from the SCs, and of those, Dalits, the lowest-ranking Arunthathiyars, were subjected to additional abuse. Trade unions were not allowed in sumangali factories, and most sumangali workers did not report abuses due to fear of retribution.

Most states have dowry prohibition officers, but Mizoram and Nagaland do not, since there is traditionally no dowry system in these states, and cases rarely were registered. The Dowry Prohibition Act does not apply to Jammu and Kashmir. In 2010 the Supreme Court made it mandatory for all trial courts nationwide to add the charge of murder against persons accused in dowry-death cases.

So-called honor killings continued to be a problem, especially in Punjab, Uttar Pradesh, and Haryana, where as many as 10 percent of all killings were honor killings. These states also had low female birth ratios due to gender-selective abortions. In some cases the killings resulted from extrajudicial decisions by traditional community elders, such as “khap panchayats,” unelected caste-based village assemblies that have no legal authority. Statistics for honor killings were difficult to verify, since many killings were unreported or passed off as suicide or natural deaths by family members. NGOs estimated that at least 900 such killings occurred annually in Haryana, Punjab, and Uttar Pradesh alone. The most common justification for the killings offered by those accused or by their relatives was that the victim married against her family’s wishes. For example, in January the parents of a 21-year-old woman in Sangrur District, Punjab, killed their daughter because she intended to marry a man of her choice.

In some areas of the country women and girls dedicated in symbolic marriages to Hindu deities reportedly were subjected to instances of rape or sexual abuse at the hands of priests and temple patrons – a form of sex trafficking. NGOs suggested that some SC girls were sent to these symbolic marriages, and subsequent sex work in temples, by their families to mitigate household financial burdens and the prospect of marriage dowries. The women and girls were also at heightened risk of contracting HIV/AIDS and other sexually transmitted infections. Some states have laws to curb prostitution or sexual abuse of women and girls in temple service.

Enforcement of these laws remained weak, and the problem was widespread. Observers estimated more than 450,000 women and girls were in this system.

Female Genital Mutilation/Cutting (FGM/C): According to human rights groups, the practice of female genital cutting was prevalent among the Dawoodi Bohra Muslims, a community located throughout the western part of the country. A short documentary film, *A Pinch of Skin*, on this practice debuted in the country.

Sexual Harassment: Sexual harassment, sometimes euphemistically called “eve teasing,” remained prevalent. According to the NCRB, 9,173 cases of sexual harassment were reported in 2012, a 7 percent increase from 8,570 cases in 2011. There were 45,351 cases of molestation in 2012, nearly a 6 percent increase from 42,968 cases in 2011. Cases of rape and molestation remained largely unreported due to social pressure.

In February parliament passed the Sexual Harassment at the Workplace Act which is based on guidelines issued by the Supreme Court in 1997 to prevent harassment of women in workplaces. The law applies to domestic workers and agricultural labor in both the formal and informal sectors. All state departments and institutions with more than 50 employees are required to have committees to deal with matters of sexual harassment. By law sexual harassment includes one or more unwelcome acts or behavior, such as physical contact and advances, a demand or request for sexual favors, making sexually colored remarks, or showing pornography. Punishment is a fine of up to 50,000 rupees (\$813). The law also includes provisions for safeguarding against false or malicious charges.

Reproductive Rights: The government permitted health clinics and local health NGOs to operate freely in disseminating information about family planning. There were no restrictions on the right to access contraceptives. Laws penalizing families with more than two children remained in place in seven states, but authorities seldom enforced them. The laws provide reservations for government jobs and subsidies to those who have no more than two children and reduced subsidies and access to health care for those who have more than two.

Government efforts to reduce the fertility rate were in some cases coercive. In many areas health workers were offered rewards for encouraging sterilization or given targets for quotas of female sterilizations and threatened with pay cuts or dismissal for failing to reach the set number. Some reports described a “sterilization season,” in which health-care workers pressed to reach quotas for sterilizations before the end of the fiscal year on March 31. National health

officials noted that the central government did not have the authority to regulate state decisions on population issues. Some states also introduced “girl child promotion” schemes, intended to counter gender-based sex selection, some of which required a certificate of sterilization for the parents in order to collect benefits. In some areas sterilizations were practiced in unsafe and unsanitary conditions.

Some women were pressured into having hysterectomies because of financial incentive structures for health-care workers, and others reported being paid approximately 615 rupees (\$10), which could equal one week’s wages, to undergo sterilization. This pressure often affected poor and lower-caste women disproportionately. In one village, news reports indicated that 90 percent of women had hysterectomies, including many of those well below the age of likely medical necessity.

There were reports of more than 7,000 unwarranted hysterectomies conducted on illiterate tribal women, largely by doctors in 169 hospitals in Chhattisgarh. Reports alleged that doctors who recommended the procedures sought to make money by charging the maximum fees allowable for the procedure under the government insurance scheme for underprivileged families. In April the NHRC sought a detailed report on this matter from the Chhattisgarh government covering a period of 30 months. Most of the women belonged to poor families or indigenous tribes. As a result the Chhattisgarh government suspended the licenses of nine doctors. Following a PIL filed by the HRLN in March, the Supreme Court issued petitions to the state governments of Chhattisgarh, Rajasthan, and Bihar, where such hysterectomies took place. The petitions sought state monitoring, inspection, and accountability mechanisms for the private health-care industry and suspension of the doctors’ licenses, in addition to initiation of criminal proceedings against doctors who engaged in fraudulent health-care practices.

According to the most recent data from the 2012 United Nations Population Fund (UNFPA) *State of World Population Report*, the maternal mortality ratio was 200 deaths per 100,000 live births in 2010. The major factors influencing the high maternal mortality rate were lack of adequate nutrition, medical care, and sanitary facilities. According to the UNFPA report, the major indicators for maternal mortality were poverty and inadequate access to medical facilities during pregnancy and at birth. The World Bank estimated that 75 percent of women received some prenatal care during the year, and the World Health Organization estimated that skilled help attended 47 percent of births, 75 percent of women made at least one prenatal visit, and 50 percent made at least four prenatal visits.

The National AIDS Control Organization, which formulates and implements programs for the prevention and control of HIV and AIDS, reported in its 2011-12 annual report that women accounted for nearly one million of the estimated 2.39 million citizens with HIV/AIDS. Infection rates for women were highest in urban communities, and care was least available in rural areas. Traditional gender norms, such as early marriage, limited access to information and education, and poor access to health services, continued to leave women especially vulnerable to infection. The National Aids Control Organization worked actively with NGOs to train women's HIV/AIDS self-help groups.

NGOs reported that early marriage (under age 18) and early pregnancy remained common in West Bengal. Approximately 57 percent of women had home delivery births, according to NGOS, and prenatal and postnatal care were low in hard-to-reach rural areas. NGOs also reported a lack of prenatal education in remote areas.

Maternal mortality rates were highest in Madhya Pradesh, closely followed by Chhattisgarh. In comparison Maharashtra had better maternal survival rates. A common cause of maternal mortality was poor access to modern health facilities where women could safely deliver children. Madhya Pradesh also lacked doctors, especially gynecologists in public-health centers. Chhattisgarh started special ambulance services with a toll-free number to increase institutional deliveries.

The 2010-12 Sample Registration Report of the Registrar-General of India, released in December, showed that during three years the maternal mortality rate declined 16 percent from 212 to 178 per 100,000 births. Assam's maternal mortality rate was the highest in the country at 328, followed by Uttar Pradesh/Uttarakhand at 292. The southern states of Kerala at 66 and Tamil Nadu at 90 had the lowest rates, and both met the Millennium Development Goal of 103 deaths per 100,000 live births. The main reasons for maternal mortality included women giving birth at an older age, giving birth at an early age, immediately conceiving after giving birth, and giving birth to many children.

Discrimination: The law prohibits discrimination in the workplace and requires equal pay for equal work, but employers paid women less than men for the same job, discriminated against women in employment and credit applications, and promoted women less frequently than men.

Many tribal land systems, notably in Bihar, deny tribal women the right to own land. Muslim personal law traditionally determines land inheritance for Muslim

women, allotting them less than men. Other laws relating to the ownership of assets and land accord women little control over land use, retention, or sale. Several exceptions existed, such as in Kerala, Ladakh District, and Himachal Pradesh, where women could control family property and had inheritance rights.

Gender-based Sex Selection: According to the 2011 national census, the national average male-female sex ratio at birth was 109.4 to 100. In 2011 there were 914 girls per 1,000 boys under age six, down from 927 girls per 1,000 boys in 2001. The Prenatal Diagnostic Technical Act prohibits prenatal sex selection, but it was rarely enforced. Numerous NGOs throughout the country and some states attempted to increase awareness about the problem of prenatal sex selection, promote female children, and prevent female infanticide and abandonment.

Andhra Pradesh, through the Bangaru Thalli Girl Child Promotion and Empowerment Act (2013), mandates that economically disadvantaged families with female children be given money at different intervals from birth until the time the girl reaches age 21. The government of Odisha introduced a similar program, the “Odisha Girls Incentive Program,” to support Dalit and tribal girls through annual scholarships for education. Gujarat, Maharashtra, and Madhya Pradesh had incentive schemes as well as Save the Girl Child campaigns in varying formats.

In April the Tamil Nadu government increased fixed deposits from 22,000 rupees (\$359) to 50,000 rupees (\$816) for underprivileged female children under the state government’s Girl Child Protection Scheme. The program began in 1992 to eradicate female infanticide/feticide.

## **Children**

Birth Registration: The law establishes state governments’ procedures for birth registration. UNICEF estimated that 58 percent of national births were registered each year. Children lacking citizenship or registration may not be able to access public services, enroll in school, or obtain identification documents later in life (see also section 2.d., Stateless Persons).

Education: The constitution provides for free education for children from ages six to 14, but the government did not always provide this education. The Annual Survey of Education Report, released by the NGO Pratham, revealed that more than 96 percent of children between ages six and 14 were enrolled in schools in 2012. Girls between ages 11 and 14 were the demographic most frequently not enrolled. The enrollment statistics varied widely between states. In Bihar,



Chhattisgarh, and West Bengal less than 5 percent of girls were not enrolled in school. In Rajasthan and Uttar Pradesh the percentages of girls not enrolled were as high as 9.7 percent and 11 percent, respectively. The law makes education a fundamental right of every child between ages six and 14 and specifies minimum requirements and norms in elementary schools, but state governments continued to face implementation challenges across the country. Pratham reported that 73 percent of schools surveyed had available drinking water and the number of schools without a functioning toilet decreased from more than 12 percent in 2011 to more than 8 percent in 2012. Although the pupil-to-teacher ratio improved from 2011 to 2012, 42 percent of schools met the norms prescribed by the Right to Education Act.

There were numerous reports of schools refusing admission or denying entry to underprivileged students. According to NGO sources, less than one-half of children between ages six and 14 attended school.

UNICEF estimated that the gross enrollment ratio for girls in primary school between 2008 and 2011 lagged behind boys by only 1 percent. The enrollment gap between girls and boys in secondary school was estimated at 10 percent.

Child Abuse: The law provides for protection against various forms of child abuse, but it remained common, including in school and institutional settings. The government failed to educate the public adequately against child abuse or enforce the law. Although corporal punishment is banned, teachers often used it. According to the Ministry of Home Affairs' 2012-13 annual report, there were 33,098 cases of crimes reported against children in 2011, an increase from 26,694 cases in 2010. The National Commission for Protection of Child Rights (NCPCR) reported that in 2011-12 courts heard 299 cases involving crimes against children, up from 294 during 2010-11.

The Ministry of Women and Child Development reported 38,172 cases of sexual or physical abuse against children in 2012. The NCPCR registered 509 cases of child abuse in 2012-13, as of February 15, up 117 percent in the previous four years. The state of Uttar Pradesh had the most cases in the country at 110.

NGOs noted that the Protection of Children from Sexual Offences (POCSO) Act (2012) was a landmark achievement. Under the POCSO the District and Sessions Court in Karnataka sentenced Shivappa, alias Shivanand Madar, age 38, of Shivaragatti, to life imprisonment and a fine of 10,000 rupees (\$163) for raping a nine-year-old girl in Amminabhavi village, Dharwar District, on January 5.

In August authorities arrested the principal of a private school in Arunachal Pradesh, two school staffers, and the warden of the school's hostel on charges of raping 14 female students ranging in age from four to 13. The case became known when students reported the abuse to local police. According to police the abuse had been going on at the school for the past three years, and the accused threatened the girls with serious consequences if they told their parents.

On July 24, the Indore bench of the Madhya Pradesh High Court upheld a lower court's death sentence of a 24-year-old convicted in a rape and murder case. Sunil, a resident of Manwar town, Dhar District, raped and killed his four-year-old niece at Karoli village in October 2012.

In March a Mumbai court sentenced Ramchandra Karanjule, founder of Kalyani Mahila Bal Seva Sansthan, an orphanage based in Navi Mumbai, to death, while convicting six others for killing a resident. They were convicted of sexually abusing 19 minor girls with mental disabilities from 2007 to 2011.

The most recent study by the Ministry of Women and Child Development in 2007 stated that approximately 69 percent of children reported having been physically abused, 53 percent of children reported sexual abuse, 48 percent of children reported emotional abuse, and 71 percent of female children reported neglect. Corporal punishment in city schools continued despite a judicial ban. The ministry's 2007 study stated that 65 percent of schoolchildren reported receiving corporal punishment. A study conducted by the NCPCR during the 2009-10 school year reported that more than 99 percent of children faced corporal punishment in school.

The government sponsored a toll-free 24-hour helpline for children in distress in 72 cities. A network of NGOs staffed the "Childline 1098 Service" number, accessible by either a child or an adult to request immediate assistance, including medical care, shelter, restoration, rescue, sponsorship, and counseling.

Forced and Early Marriage: The law sets the legal age of marriage for women at 18 and men at 21, and it empowers courts to annul child marriages. It also sets penalties for persons who perform, arrange, or participate in such marriages. The law was not consistently enforced. Personal laws allow marriages at an age earlier than the general law, leaving a legal regime that one international observer characterized as cumbersome and inconsistent. The law does not characterize a marriage between a girl below age 18 and a boy below age 21 as "illegal" but

recognizes such unions as voidable, providing grounds for challenging such unions in court. Only the party who was a minor at the time of marriage may seek nullification. If the party is still a minor, his or her guardian must file a petition for nullification. A party may also file upon becoming an adult, but must file within two years after reaching the age of majority. According to international and local NGOs, these limitations effectively left married minors with no legal remedy in most situations.

The law establishes a full-time child-marriage prohibition officer in every state to prevent and police child marriage. These individuals have the power to intervene when a child marriage is taking place, document violations of the law, file charges against parents, and remove children from dangerous situations in order to deliver them to local child-protection authorities.

UNICEF's *State of the World's Children 2013* report noted that 47 percent of women in India were married before age 18. According to the UNICEF report, women married as children contributed to the country's high infant and maternal mortality rates, and observers suspected that early motherhood contributed to the deaths of 6,000 adolescent mothers each year.

On October 1, the West Bengal government implemented the Kanya Shree (Precious Daughter) program to encourage young girls to complete their education and marry later. The social program sought to provide two types of financial incentives aimed at reversing the sharp increase in school dropout rates among West Bengal girls after age 14. The program gave approximately 600 rupees (\$9.80) per month to every school-age girl whose family was below the poverty line for as long as she continued her studies. In addition a girl who remained unmarried until she completed high school at age 18 would receive a one-time grant of 25,000 rupees (\$408).

The Karnataka High Court in February ruled that the Prohibition of Child Marriage Act (PCMA) overrode provisions of the Muslim Personal Law allowing the marriage of a female child when she attained puberty. The ruling responded to a petition filed by the father of a 17-year-old girl who sought a declaration that the PCMA was not applicable to Muslims.

Harmful Traditional Practices: No national law addresses the practice of FGM/C. According to human rights groups, between 70 and 90 percent of Bohra Muslims practiced various forms of FGM/C. The states of Maharashtra, Gujarat, Madhya

Pradesh, and Rajasthan had a Bohra population estimated at one million. During the year a campaign continued against FGM/C among the Bohra community.

Sexual Exploitation of Children: The law prohibits child pornography and states that the legal age of consent is 18. By law it is illegal to pay for sex with a minor, to induce a minor into prostitution or any form of “illicit sexual intercourse,” or to sell or buy a minor for the purposes of prostitution. Violators are subject to 10 years’ imprisonment and a fine. Nevertheless, according to UNICEF approximately 1.2 million children were trafficking victims, prostituted and enslaved throughout the country, including via child sex tourism.

NGOs reported that children under age 18 were engaged in prostitution in red-light districts in major cities. Child trafficking for sexual exploitation frequently occurred in urban and rural areas. A July report by the UN Office of Drugs and Crime stated that child trafficking for sexual exploitation was increasing, although official statistics were not available.

Child Soldiers: No information was available on how many persons under age 18 were serving in the armed forces. There were allegations that government-supported anti-Naxalite village defense forces recruited children. Armed groups, including Naxalites and groups in Jammu and Kashmir and in the Northeast States, reportedly used children (see section 1.g.).

Displaced Children: Displaced children, including refugees, IDPs, and street children, faced limits on access to government services (see also section 2.d.) and were often unable to obtain medical care, education, proper nutrition, or shelter. Such children were often physically and sexually abused and forced to work in hazardous jobs, such as rag picking (sorting garbage for recyclables).

Institutionalized Children: Weak enforcement of laws and lack of safeguards encouraged an atmosphere of impunity in group homes and orphanages. NGOs alleged that many such homes for children operated without government oversight or approval. Only 14 states had established commissions for the protection of child rights, as mandated by law. In 2011 the Ministry of Women and Child Development informed parliament that there were 1,199 shelter homes nationwide, serving 76,035 children.

An April report by the ACHR, *India’s Hell Holes: Child Sexual Assault in Juvenile Justice Homes*, stated that 48,338 child-rape cases were recorded from 2001 to 2011 and that the registration of child-rape cases in juvenile homes had

increased by 336 percent since 2001. The ACHR also stated that most child-rape cases were not reported to police. The report highlighted 39 cases of child sexual assaults in juvenile justice homes across the country.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For country-specific information, see the Department of State's report at [travel.state.gov/content/childabduction/english/country/india.html](http://travel.state.gov/content/childabduction/english/country/india.html).

### **Anti-Semitism**

Jewish groups and the 1,500-person Jewish population cited no reports of anti-Semitic acts during the year.

### **Trafficking in Persons**

See the Department of State's Trafficking in Persons Report at [www.state.gov/j/tip/](http://www.state.gov/j/tip/).

### **Persons with Disabilities**

The constitution does not explicitly mention disability as a prohibited ground for discrimination. The Persons with Disabilities Act (PDA) provides equal rights for persons with a variety of disabilities, including blindness, low vision, those cured of Hansen's disease or "leprosy" (i.e., those cured of Hansen's disease but who still lacked sensation in their extremities or experienced weakness or other problems caused by the infection), hearing impairment, mobility disability, developmental disability, and mental illness. The law is weakened by a clause that links implementation of programs to the "economic capacity and development" of the government. The act encourages governmental authorities to promote access, but it includes no specific enforcement provisions, sanctions for authorities who fail to be proactive in fulfilling their obligations, and no mechanism outlining how authorities should implement the act's provisions.

According to the Director of the National Center for Promotion of Employment for Disabled People (NCPEDP), Javed Abidi, the law regards persons with disabilities as requiring social protection and medical care, rather than as possessing inherent rights as persons with disabilities.

The government has more than 200 district disability rehabilitation centers that provide comprehensive rehabilitation services for medical problems as well as educational services, vocational training, and community awareness.

Barrier Break, an organization that assisted the Ministry of Social Justice and Empowerment to make its website accessible to persons with disabilities, reported that the states of Maharashtra and Kerala were working to make their websites similarly accessible without seeking central government funds. The Maharashtra state government drafted an e-governance policy requiring that all departments design accessible websites.

Discrimination against persons with disabilities in employment, education, and access to health care was more pervasive in rural areas. Despite legislation that all public buildings and transport be accessible to persons with disabilities, there was limited accessibility.

The Ministry of Health and Family Welfare estimated that 6 to 7 percent of the population experienced a mental or psychosocial disability. Of the individuals with mental disabilities, 25 percent were homeless, and many in rural areas did not have access to modern mental health-care facilities. Disability rights activists estimated that the country had 40 to 90 million persons with disabilities. The NGO CRY estimated that one in 10 children in the country had disabilities. There were three mental-health institutions run by the federal government and 40 state-operated mental hospitals nationwide.

Most of those with mental disabilities were dependent on public health-care facilities, and fewer than half of those who required treatment or community support services received such assistance.

An estimated 60 to 70 million persons with disabilities exercised their right to vote in special booths during the 2009 elections. NCPEDP Director Abidi stated that millions of ramps were constructed at polling booths across the country for easy access for wheelchairs and Braille markings on electronic voting machines aided the blind.

The law requires that 3 percent of public-sector jobs be reserved for persons with physical, hearing, or visual disabilities. NGOs reported that government annual reports have not provided any information on fulfillment of the quota. The government continued to allocate funds to programs and NGO partners to increase the number of jobs filled. Private-sector employment of persons with disabilities

remained low, despite PDA benefits to private companies in which persons with disabilities constituted more than 5 percent of the workforce.

The law also stipulates that 3 percent of all educational places be reserved for persons with disabilities, but, according to the Ministry of Social Justice and Empowerment, students with disabilities made up only an estimated 1 percent of all students. Some schools continued to segregate children with disabilities or deny them enrollment due to lack of infrastructure, equipment, and trained staff. UNICEF estimated that between 6 and 10 percent of all children in the country were born with disabilities. The Ministry of Social Justice and Empowerment continued to offer scholarships to persons with disabilities to pursue higher education. University enrollment of students with disabilities remained low for several reasons, including inaccessible infrastructure, limited resources, nonimplementation of the 3 percent job reservation, and harassment.

A girl with disabilities was denied admission to Class VI in a government school in Thoothukudi, Tamil Nadu, in June. According to the Tamil Nadu Differently-abled Federation, the school violated the Right to Education Act, which reserves 25 percent of places for underprivileged children, and the PDA, which reserves 3 percent of seats for children with disabilities.

According to the Tamil Nadu Differently-abled Federation, the Tamil Nadu government raised the number of modified gasoline two-wheelers to be given during the year to persons above age 18 with disabilities.

Under the Tamil Nadu chief minister's Comprehensive Health Insurance Scheme, 247 cochlear implant surgeries for persons with hearing disabilities were performed between January and July.

In February the Tamil Nadu government issued an order to make public places accessible for persons with disabilities. The order directed that existing buildings be made accessible within 180 days from its issuance.

### **National/Racial/Ethnic Minorities**

The national census categorized the population by language spoken, not by racial or ethnic groups. Society traditionally has been divided into castes or clans. Caste is a complex Hindu social hierarchy system that traditionally determines ritual purity and occupation. The constitution in 1949 prohibited caste discrimination. The registration of castes and tribes continued for the purpose of affirmative action

programs, as the government continued to implement various programs to empower members of the low castes. The law gives the president authority to identify historically disadvantaged castes and tribes for special quotas and benefits; these are the Scheduled Castes (SCs) and Scheduled Tribes (STs). Discrimination based on caste remained prevalent particularly in rural areas.

The term “Dalit,” derived from the Sanskrit for “oppressed” or “crushed,” refers to members of what were traditionally regarded as the lowest Hindu castes, the SCs. Many SC members continued to face impediments to the means of social advancement, such as education, jobs, access to justice, freedom of movement, and access to institutions and services. According to the 2011 census, SC members constituted 16.6 percent (approximately 200.9 million persons) of the population. The Ministry of Home Affairs’ 2012-13 annual report noted 33,719 cases of registered crimes against SC members in 2011, compared with 32,712 cases in 2010. The report also noted that 4,247 Dalits were hurt in various incidents, and 9,086 persons were convicted of crimes against Dalits in 2012, according to NCRB records.

Although the law protects Dalits, they faced violence and significant discrimination in access to services, such as health care, education, temple attendance, and marriage. Many Dalits were malnourished. Most bonded laborers were Dalits. Dalits who asserted their rights often were attacked, especially in rural areas. As agricultural laborers for higher-caste landowners, Dalits often worked without remuneration. Reports from the UN’s Committee on the Elimination of Racial Discrimination described systematic abuse of Dalits, including extrajudicial killings and sexual violence against Dalit women. Crimes committed by upper-caste Hindus against Dalits often went unpunished, either because authorities failed to prosecute perpetrators or because victims did not report crimes due to fear of retaliation.

NGOs reported widespread discrimination, including that Dalits were often not permitted to walk on public pathways, wear footwear, access water from public taps in upper-caste neighborhoods, participate in some temple festivals, bathe in public pools, or use some cremation grounds.

NGOs reported that Dalit students were denied admission to certain schools because of their caste or were required to present caste certification prior to admission. During the year there were reports that school officials barred Dalit children from morning prayers, asked Dalit children to sit at the back of the class, or forced Dalit children to clean school toilets while denying them access to the



same facilities. There were also reports that teachers refused to correct the homework of Dalit children, refused to provide midday meals to Dalit children, and asked Dalit children to sit separately from children of upper-caste families.

The federal and state governments continued to implement various programs for SC members to provide better-quality housing, reserved seats in schools, government jobs, and access to subsidized foods, but critics claimed that many of these programs suffered from poor implementation and/or corruption.

Manual scavenging, the removal of animal or human waste by Dalits, continued in spite of its prohibition under the law. On September 7, parliament passed the Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill prohibiting manual scavenging. Minister for Social Justice Kumari Selja stated that the “dehumanizing practice” was “inconsistent with the right to live with dignity,” and India wanted “to remove the stigma and blot on the society.” Public-sector Indian Railways, previously the largest employer of manual scavengers, may reduce its extensive use of manual scavengers as a result of the new law. Experts assessed that it would take time to eradicate the practice totally across society.

On January 1, police recovered the bodies of three Dalit youths from a septic tank. They belonged to the manual scavenger community in Ahmednagar District, Maharashtra. One of them allegedly had a relationship with an upper-caste girl against the wishes of her family. A fact-finding report was released on January 30 and sent to NHRC. A week later, police arrested five men under the Prevention of Atrocities against Dalits Act, while the Maharashtra home minister ordered a CID probe of the incident after Dalit activists complained that local police were moving slowly in the case.

On April 7, upper-caste Bharwads (pastoralists), including a village head and five other members of the village council in the Patel-dominated Amamagar village of Rajkot, burned eight Dalit family homes after Dalits used water from a common water source in the village on April 4. Two Dalits were injured.

On June 26, the Bamroli village local council in the state of Gujarat banned the entry of Dalits into the village temple. When a Dalit woman, Meena Shenva, complained to police, the local council allowed Dalits to offer prayers from a small opening in a temple wall, approximately 109 feet away from the main temple entrance. Authorities arrested the temple priest and local council members for

violations of the SCs and STs (Prevention of Atrocities) Act (1989) but released them on bail before year's end.

In July police in Sehore District beat two Dalit youths and paraded them naked in a village while questioning them about a relative who had violated parole two decades previously. Police released them on July 25, after one victim's wife approached the superintendent of police. After the two youths approached the Madhya Pradesh Human Rights Commission on August 1, police threatened them again.

According to a People's Union for Civil Liberties fact-finding mission, violence broke out in Marakkanam – a town south of Chennai – between Pattali Makkal Katchi political party members of the Vanniyar community and Dalit villagers. The incident took place in April, on the day the Vanniyar community organized a youth conference. The youths assaulted Dalit villagers, damaged the housing settlement, and fled.

The media alleged that discrimination occurred between prisoners in Tamil Nadu. For example, Dalit prisoners were not furnished basic needs, including drinking water, while non-Dalits were provided drinking water and better care in the Salem prison.

## **Indigenous People**

The constitution provides for the social, economic, and political rights of disadvantaged groups of indigenous people. The law provides special status for indigenous people, but authorities often denied them their rights. According to the Ministry of Tribal Affairs' 2011-12 annual report, there were more than 700 STs in the country, and the 2011 census revealed the population of ST members as 84.3 million, approximately 8 percent of the total population. In 2011 a pilot survey to identify households below the poverty line found that SC and ST members constituted half the total of poor households. There were 75 Particularly Vulnerable Tribal Groups, characterized by primitive technology, stagnant or declining population, extremely low literacy, and subsistence-level economy.

In most of the Northeastern States, where indigenous groups constituted the majority of the states' population, the laws provide for tribal rights, although some local authorities attempted to violate these provisions. The laws prohibit any nontribal person, including citizens from other states, from crossing a government-established inner boundary without a valid permit. No rubber, wax, ivory, or other

forest products may be removed from protected areas without prior authorization. Tribal authorities must approve the sale of land to nontribal persons.

Information provided by the NCRB stated 5,922 criminal cases were reported against members of STs in 2012, an increase from the 5,756 cases reported in 2011. Tribal women employed as domestic workers often were neither properly paid nor protected from sexual exploitation. Encroachment on tribal lands continued in almost every state, despite limited efforts by the states to combat the practice, since businesses and private parties continued to exert political influence and pressure on local governments. Those displaced by the encroachments typically were not compensated or provided with appropriate relief and rehabilitation packages.

Numerous tribal movements demanded the protection of tribal land and property rights. Local activists claimed that the rights of tribal and rural groups under the Forest Act continued to be manipulated. Weak enforcement of the act often circumvented the free and informed consent of tribal and rural groups prior to development.

On April 18, the Dongria Kondh tribe living on and around the Niyamgiri hills in Kalahandi and Rayagada Districts in Odisha won a victory when the Supreme Court ordered that only the tribe's individuals have a right to decide whether the hills, considered sacred, may be mined for bauxite by Vedanta Resources for its aluminum production unit. In the subsequent public hearings conducted in 12 affected villages, the tribe's people unanimously rejected the mining proposal.

Human rights activists noted that more than 2,000 tribal members were in jail, charged with Naxalite/Maoist offenses, and that many had been imprisoned for more than two years without trial. The accused were not provided with the services of translators or interpreters and did not appear in court for lengthy periods. In Chhattisgarh the arrested tribal members, mostly from the southern region, were lodged in jails far away from their homes, making it difficult for their families to visit them due to poverty. Activists also reported state harassment of the defense lawyers who took up these cases.

The Karnataka state government began the relocation of 401 indigenous families from the Kudremukh National Park. Families that agreed to relocation were to be given land titles. According to the state government, a total of 120 families were granted titles during the year. Local civil rights groups alleged that such titles only

allowed construction of homesteads but denied indigenous households access to the forest, their principal source of livelihood.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

On December 11, a two-person bench of the Supreme Court overturned a 2009 ruling by the Delhi High Court, which had found unconstitutional a colonial-era portion of the penal code (section 377) that described homosexual acts as “against the order of nature” and punishable by up to life in prison. The Supreme Court ruled that only parliament may make changes to the law that bans consensual same-sex sexual activity. The media, activists, prominent members of the public, and government officials reacted strongly against the ruling. The government filed a petition challenging the December 11 ruling, seeking review by a broader bench of the Supreme Court. The appeal was pending at year’s end.

In 2010 the Election Commission officially recognized a gender identity of “other” on voter registration forms for individuals who do not affiliate with the prevailing male-female dichotomy. Subsequently, the Election Commission of New Delhi organized registration booths and registered 439 voters from the transgender community. According to the *Indian Express* newspaper, the total number of transgender persons in the city was 8,500.

Lesbian, gay, bisexual, and transgender (LGBT) persons faced physical attacks, rape, and blackmail. Some police committed crimes against LGBT persons and used the threat of arrest to coerce victims not to report the incidents. Several states, with the aid of NGOs, offered education and sensitivity training to police.

On September 1, the Hyderabad city police raided a party attended by gay men in a local bar on the grounds that “obscene” acts were taking place. Police did not arrest the 56 men who were attending the party but arrested the bar managers under sections 294 of the Indian Penal Code (obscene acts and songs in a public place), 21/76 of the City Police Act (for allowing customers inside the bar after legal closing time), and 34A of the Andhra Pradesh Excise Act (for serving liquor after legal closing time). Although police maintained that the raid had nothing to do with the party being attended by gay men, activists of the LGBT community in Hyderabad asserted that it was a clear case of “moral policing” and that police acted with a “homophobic” mindset. An activist stated that it was a violation of one’s right to have a public life of one’s own and that the raid instilled a sense of

fear in the minds of LGBT community members in addition to reinforcing existing stereotypes within society.

On November 30, an art gallery in Hyderabad was forced to close an exhibition on nudity and homosexuality titled, “My Bed of Roses,” by gay artist Balbir Krishan, following threats and objections from right-wing groups and individuals. The curator stated that the activists objected to the paintings on the grounds that they represented “everything against Indian culture.”

LGBT groups were active throughout the country mostly in urban areas. Advocacy groups and collectives regularly sponsored events and activities, including pride marches, cultural events, and public demonstrations of support for equal rights. LGBT groups reported that they faced widespread discrimination and violence throughout society, particularly in rural areas. Activists reported that transgender persons who were HIV-positive continued to have difficulty obtaining medical treatment. Advocacy organizations, such as the Mission for Indian Gay and Lesbian Empowerment (MINGLE), have documented workplace discrimination against LGBT persons, including slurs by colleagues and supervisors as well as unjustified dismissals. The LGBT community in Hyderabad secured permission from police to hold a pride march, which took place on February 3. The march was the first in Andhra Pradesh, and groups involved in its planning and implementation stated that it marked a new beginning for assertion of their identity.

The benefits accorded to transgender persons varied across the country. In Tamil Nadu a transgender welfare board provided separate identity and ration cards to transgender persons. In 2010 the state of Karnataka announced that transgender persons would be included in the “Backward Classes” list, making them eligible for pensions, ration cards, and housing assistance under a reservation scheme. The National Legal Services Authority included transgender persons in the definition of marginalized groups, enabling access to free legal aid.

### **Other Societal Violence or Discrimination**

There were an estimated 2.4 million persons with HIV/AIDS in the country, and, according to the International Labor Organization (ILO), as many as 70 percent faced discrimination. The HRW reported that many doctors refused to treat HIV-positive children and that some schools expelled or segregated children because they or their parents were HIV-positive. Many orphanages and other residential institutions rejected HIV-positive children or denied them housing. Incidents of

discrimination were more frequent in rural areas. Social activists working with HIV-affected individuals claimed that they were being denied basic rights to education, employment, and nutrition.

On August 22, the Gujarat High Court directed state authorities to protect the identities of HIV-infected persons. The order followed a petition filed by Harsha Pabari when state-government hospital authorities in Jamnagar labeled a 25-year-old pregnant woman with an HIV-positive sticker on her forehead and paraded her in the hospital when she went for a checkup during a visit in 2009.

On May 12, members of the Burhanpur Network of People Living with HIV/AIDS, in Madhya Pradesh, reported discrimination and mistreatment by doctors in the Burhanpur District hospital. Nurses refused to touch a child who was HIV-positive, the doctors also refused to touch patients who were HIV-positive, and doctors mistreated the network president, Rukmini Ganguly.

Societal violence based on religion continued to be a concern. According to the Ministry of Home Affairs' annual report, 91 persons died in altercations between religious communities, and more than 485,000 persons were displaced in 2011.

Communal violence between Muslims and Hindus led to 65 reported deaths, 42,000 persons displaced, and hundreds of injuries during the months of August and September in the Muzaffarnagar area of Uttar Pradesh. The violence started with a sexual harassment incident between a Muslim man and a Hindu Jat woman and escalated following a political meeting of officials and others from more than 300 local villages during the weekend of September 7-8.

Civil society activists continued to express concern about the Gujarat government's failure to protect the population or arrest many of those responsible for communal violence in 2002 that resulted in the killings of more than 1,200 persons, the majority of whom were Muslim, although there was progress in several court cases. The Gujarat government appointed the Nanavati-Mehta Commission to investigate the 2002 violence. In December the Gujarat government granted an extension for the 21st time, extending the commission to June 30, 2014.

The Gujarat government withdrew its consent to seek the death penalty for former minister Maya Kodnani and others convicted in the 2002 Naroda Patiya violence that killed 97 Muslims. The investigating agency questioned the Gujarat government's move in a petition in the Supreme Court in June. Kodnani, the first

senior politician to be convicted for 2002 violence, was sentenced to a 28-year jail term for her involvement in the post-Godhra riots case. A court also convicted Babu Bajrang, leader of the militant Hindu group Bajrang Dal, and 29 others. Kodnani, along with 84 others, was also implicated in the 2002 Naroda Gam violence in which 11 Muslims were killed. Trial proceedings continued at year's end.

On August 21, the Akhil Bhartiya Vidyarthi Parishad (ABVP), the student wing of the BJP, attacked five students of the Film and Television Institute of India (FTII) in Pune with wooden flags following the screening of activist Anand Patwardhan's documentary, *Jai Bheem Comrade*, and the performance by Kabir Kala Manch, a Pune-based theater group, at the National Film Archive of India. The FTII student body and Yugpath, a youth forum based in Pune, organized the show. This was the first public performance by Kabir Kala Manch after two and a half years. ABVP members protested against Kabir Kala Manch, labeling it as pro-Naxal and antinational. The students alleged that police failed to protect them.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the rights to form and join unions and bargain collectively, although there is no legal obligation on employers to recognize a union or engage in collective bargaining. In the state of Sikkim trade union registration was subject to prior permission from the state government. Less than 10 percent of the workforce, or 100 workers, in an establishment may form a union if at least seven workers are current employees. This law limits organizing rights of federal and state government employees.

The law provides for the right to strike but places restrictions on this right for some workers. For instance, in export processing zones (EPZs), a 45-day notice is required because of the EPZs' designation as "public utilities." The law also allows the government to ban strikes in government-owned enterprises and requires arbitration in specified essential industries. Interpretations of what industries are considered essential vary from state to state. The law prohibits antiunion discrimination and retribution for involvement in legal strikes, and provides for reinstatement of employees fired for union activity.

Enforcement of labor law varied from state to state and from sector to sector, and enforcement was generally better in the larger, organized sector industries.

Authorities generally prosecuted and punished individuals responsible for intimidation or suppression of legitimate trade union activities in the organized industrial sector. Violations were dealt with under civil judicial procedures because the Trade Union Act does not lay down specific penalties for such violations. Specialized labor courts adjudicate labor disputes, but there were long delays and a backlog of unresolved cases.

Freedom of association and the rights to organize and bargain collectively were generally respected in the formal industrial sector but not in the large, informal economy. Most of the country's union members were in the formal sector, and trade unions represented a small number of agricultural and informal sector workers. An estimated 80 percent of unionized workers were affiliated with one of the five major trade union federations. Unions were independent of the government, but four of the five major federations were associated with major political parties. According to the most recent statistics from the Ministry of Labor and Employment, there was a total of 91 strikes and lockouts during the period January 1 to July 31. State and local authorities occasionally used their power to declare strikes illegal and force adjudication.

There were no official reports of cases of antiunion discrimination or of retribution or sanctions against employees for trade union activity during the year. Labor groups reported that some employers continued to refuse to recognize established unions, and established "workers' committees" and employer-controlled unions to prevent independent unions from being established. EPZ workers often were employed on temporary contracts. In addition employee-only restrictions on entry to the EPZs limited union organizers' access.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits bonded labor, but this problem, including bonded child labor (see section 7.c.), remained widespread.

Estimates of the number of bonded laborers in the country varied widely, and several NGOs placed the number in the tens of millions. Most bonded labor occurred in agriculture. Nonagricultural sectors with a high incidence of bonded labor were stone quarries, brick kilns, rice mills, construction, embroidery factories, and beedi (hand-rolled cigarettes) production.

Enforcement and compensation for victims are the responsibility of state and local governments and varied in effectiveness. In general the government did not



effectively enforce laws related to bonded labor or labor trafficking laws, such as the Bonded Labor (System) Abolition) Act. When inspectors referred violations for prosecution, long court backlogs, inadequate prosecution, and lack of prioritization sometimes resulted in acquittals. Prison sentences for employers of forced laborers are a maximum of three years. Such penalties were insufficient to deter violations. Moreover, successful prosecutions were rare.

The Ministry of Labor and Employment continued to collaborate with the ILO to combat bonded labor, including through the “convergence program” established with the ILO in the states of Tamil Nadu, Andhra Pradesh, and Odisha to target workers vulnerable to bonded labor.

The Ministry of Labor and Employment reported increased numbers and efforts to release and rehabilitate bonded laborers under the Centrally Sponsored Scheme. The ministry reported that 4,828 laborers were released from bondage in eight states between April 1, 2011 and March 31, 2012. Some NGOs reported delays in obtaining release certificates for rescued bonded laborers which were required to certify that they were held in bondage and make them entitled to compensation under the law. Distribution of rehabilitation funds also was uneven across states. An Odisha-based NGO reported that after providing immediate relief payments with relief certificates, state government officials rarely followed up on cases or provided other legally mandated relief funds. Children in bonded labor were usually not provided release certificates.

SC and ST members lived and worked under traditional arrangements of servitude in many areas of the country. In Arunachal Pradesh the Nishi tribe traditionally subjugated Sulungs or Puroiks as customary slaves.

Also see the Department of State’s Trafficking in Persons Report at [www.state.gov/j/tip/](http://www.state.gov/j/tip/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits employment of children below age 14 in factories, as well as in 18 hazardous occupations and 65 hazardous processes, such as handling pesticides, weaving carpets, breaking stones, working in mines, and domestic service. The law does permit employment of children in these occupations and processes in family-owned enterprises regardless of age. The law does not apply to family farms or family businesses, both large sectors of the economy. Children under age 14 also may be employed in occupations not explicitly covered by law.

State governments enforced labor law and employed labor inspectors, while the Ministry of Labor and Employment provided oversight and coordination. Enforcement was inadequate. The law establishes a penalty of 20,000 rupees (\$327) per child employed for employers of children in hazardous industries. Such fines were generally insufficient to deter violations and were sporadically enforced. The fines go into a welfare fund for formerly employed children. On April 22, the Ministry of Labor and Employment reported that 58,572 inspections targeting child labor violations were carried out from January to December 2012, with 1,832 persons prosecuted and 449 employers convicted. On August 12, the Ministry of Home Affairs issued a standard operating procedure to all state governments that provided guidance on handling cases of forced child labor. The procedure specifies various steps police and district administration officials need to take while handling problems related to trafficked children.

The Ministry of Labor and Employment coordinated its efforts with states to raise awareness about child labor by funding various sensitizations such as plays and community activities. In addition the ministry's National Child Labor Project reported that it removed and rehabilitated 72,976 children from work situations during the period from April 1, 2012, to March 31, 2013. On August 6, the NGO Bachpan Bachao Andolan, in conjunction with state government and local police, removed 33 child laborers from several shoe- and garment-manufacturing units in Wazirpur, Delhi. The children ranged in age from seven to 14 and came from Bihar or Uttar Pradesh. All of the children were entitled to rehabilitation packages of 20,000 rupees (\$327) and priority access to government housing and education.

Child labor remained widespread. The government estimated that there were 12.26 million child laborers between ages five and 14, based on the 2001 census figures, and UNICEF estimated that there were 29 million child laborers between ages five and 18. Several NGOs estimated the number to be significantly higher. The Ministry of Labor and Employment reported in 2012 that a study conducted by the National Sample Survey Organization estimated that nearly five million children in the 5-to-14 age group were working in 2009-10, down from nine million in 2004-05.

The majority of child labor occurred in agriculture and the informal economy, in particular in stone quarries, in the rolling of beedi cigarettes, and in informal food service establishments. Commercial sexual exploitation of children occurred (see section 6, Children). Forced child labor, including bonded labor, also remained a serious problem. Children were engaged in forced or indentured labor as domestic

servants and beggars, as well as in quarrying, brick kilns, rice mills, silk thread production, and textile embroidery.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

Federal law sets safety and health standards, but state government laws set minimum wages, hours of work, and safety and health standards. The daily minimum wage (with local cost of living allowance included) varied from 150 rupees (\$2.45) in Bihar to 361 rupees (\$5.89) in Delhi. The officially estimated poverty income level was less than 27 rupees (\$0.44) per day. State governments set a separate minimum wage for agricultural workers.

Laws on wages, hours, and occupational health and safety do not apply to the large informal sector.

The law mandates a maximum eight-hour workday and 48-hour workweek, as well as safe working conditions, which include adequate provisions for restrooms, cafeterias, medical facilities, and ventilation. The law mandates a minimum rest period of 30 minutes after every four hours of work and premium pay for overtime, but does not mandate paid holidays. The law also prohibits compulsory overtime but does not limit the amount of overtime a worker can work. Occupational safety and health standards set by the government were generally up to date and covered the main industries in the country.

State governments were responsible for enforcing minimum wages, hours of work, and safety and health standards. Specific data on the number of total labor inspectors were unavailable, and in general the number of inspectors was insufficient to enforce labor law. State governments did not effectively enforce minimum wage law for agricultural workers. Enforcement of safety and health standards was poor, especially in the informal sector but also in some formal sector industries. Penalties for violation of occupational safety and health standards ranged from a fine of 100,000 rupees (\$1,600) to imprisonment of up to two years but were not sufficient to deter violations.

Violations of wage, overtime, and occupational safety and health standards were common in the informal sector (industries and/or establishments that do not fall under the purview of the Indian Factories Act), which employed nearly 93 percent

of the workforce. Workers in small, low-technology factories often were exposed to hazardous working conditions. The country's undocumented foreign workers did not receive basic occupational health and safety protections.

Industrial accidents occurred frequently. For instance, on August 23, a major fire in the petroleum refinery of the public-sector Hindustan Petroleum Corporation Limited led to the death of at least 18 workers. Media reports suggested that the company did not implement safety recommendations following a similar accident in the same facility in 1997, which claimed 60 lives.